

VERBATIM ¹RECORD OF TRIAL ²

(and accompanying papers)

of

MANNING, Bradley E.
 (Name: Last, First, Middle Initial)

[REDACTED]
 (Social Security Number)

PFC/E-3
 (Rank)

Headquarters and
 Headquarters Company,
 United States Army Garrison
 (Unit/Command Name)

U.S. Army
 (Branch of Service)

Fort Myer, VA 22211
 (Station or Ship)

By

GENERAL

COURT-MARTIAL

Convened by _____
 (Title of Convening Authority)

UNITED STATES ARMY MILITARY DISTRICT OF WASHINGTON
 (Unit/Command of Convening Authority)

Tried at

Fort Meade, MD
 (Place or Places of Trial)

on

see below
 (Date or Dates of Trial)

Date or Dates of Trial:

23 February 2012, 15-16 March 2012, 24-26 April 2012, 6-8 June 2012, 25 June 2012, 16-19 July 2012, 28-30 August 2012, 2 October 2012, 12 October 2012, 17-18 October 2012, 7-8 November 2012, 27 November - 2 December 2012, 5-7 December 2012, 10-11 December 2012, 8-9 January 2013, 16 January 2013, 26 February - 1 March 2013, 8 March 2013, 10 April 2013, 7-8 May 2013, 21 May 2013, 3-5 June 2013, 10-12 June 2013, 17-18 June 2013, 25-28 June 2013, 1-2 July 2013, 8-10 July 2013, 15 July 2013, 18-19 July 2013, 25-26 July 2013, 28 July - 2 August 2013, 5-9 August 2013, 12-14 August 2013, 16 August 2013, and 19-21 August 2013.

¹ Insert "verbatim" or "summarized" as appropriate. (This form will be used by the Army and Navy for verbatim records of trial only.)

² See inside back cover for instructions as to preparation and arrangement.

UNCLASSIFIED
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Types of Information

- Unclassified Information
 - Dates
 - Times
 - Locations
 - Names
- For Official Use Only (FOUO)
 - Mission Critical Information
 - Capabilities
 - Vulnerabilities

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Dates and Times

- . Events
 - Large groups
 - . Public
 - . Military Personnel
 - . Department of Defense Civilians
 - . Contractors
 - Officials
 - . High Ranking NCO's
 - . Commanders
 - VIP's
 - . Politicians
 - . Diplomats

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Location Information

- . Government Facilities
 - Public Buildings
 - Government Agencies
- . Military Installations
 - Secure Facilities
 - Weapons and Equipment
 - Training Locations
 - Barracks

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Individual Information

- . Personal Information
 - Names
 - Dates of Birth
 - Addresses
 - Social Security Numbers
 - Credit Information
 - Family Members

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Official Information

- . Methods
 - Intelligence Gathering
- . Equipment
 - Weapons
 - Vehicles
- . Capabilities
- . Vulnerabilities
- . Mission Critical Information

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Adversaries

- . Foreign Governments
 - Rivals
 - Enemies
- . Non-Government Organizations
 - Corporations
 - Political Groups
 - Terrorists
- . Anyone
 - Activists
 - Hackers

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Common OPSEC Leaks

- Written Sources
 - Newspapers
 - Magazines
- Television
 - News Programs
 - Documentaries
- Internet
 - Discussion Boards
 - Chat Rooms
 - Social Networking
 - Videos

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Conclusion

- . Avoid Disclosure of Information
 - Public Conversations
 - Journalists
 - Posting Information
 - . Newsletters
 - . Fliers
 - . Internet
- . Use Common Sense
 - Many Enemies
 - Free and Open Society

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Questions

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y.

Manning, Bradley E.
PFC, U.S. Army,
HHC, U.S. Army Garrison,
Joint Base Myer-Henderson Hall
Fort Myer, Virginia 22211

**Prosecution Motion
for Preliminary Determination
of Admissibility of
MRE 404(b) Evidence**

Enclosure 3

3 August 2012

JIRLEAH SHOWMAN, Civilian, was called as a telephonic witness for the government, was sworn and testified in substance as follows:

DIRECT EXAMINATION

Questions by the assistant trial counsel:

I am Jirleah Showman of Syracuse, New York. I left the Army in the rank of Specialist on 25 June 2011 after serving 4 years and 2 months. I was in the same unit and intelligence shop with PFC Manning. I was also his team leader. I first met the accused when I arrived in the unit in March 2009. We were both 35F MOS. I attended AIT at Fort Huachuca, Arizona in July 2007. I was trained as an all source analyst on how to handle, disseminate and destroy classified information. I also received training on all of the computer systems we use to gather intelligence. You need at least an interim SECRET clearance in order to initiate training. I attended some training with the accused at the Division Headquarters prior to JRTC. We both

1 attended the JRTC rotation for Iraq. I deployed with the
2 accused to Iraq in October 2009 where we both worked in the
3 Brigade TSCIF on FOB Hammer. I worked directly with the accused
4 for the first two months as NCOIC of the night shift. The
5 accused was a Shia analyst. He would gather intelligence
6 information for products and projects that would be placed on
7 the Brigade shared drive for use by the Brigade Commander.

8
9 We used DCGS as a tool to do our job but we also used CPOF
10 strictly to communicate with the Battalions and the Companies.
11 I don't know what WGET is. I never used that to do my job. The
12 accused always had computer issues on a weekly or bi-weekly
13 basis. The DCGS contractor would have to correct his system
14 before it crashed. The accused left the Brigade SCIF on 9 May
15 2011, the morning after he assaulted me. He was removed for
16 punching me in the face and displayed uncontrollable and
17 untrustworthy behavior. I worked with the accused in a
18 supervisory capacity during the first few weeks of the
19 deployment.

20
21 The trial counsel announced the defense requested a closed
22 unclassified session. The government requested a closure
23 determination hearing.

24
25 The Investigating Officer closed the hearing.

26
27 [The Article 32 hearing recessed at 0947, 20 December
28 2011.]

29
30 [The Article 32 hearing was called to order at 0952, 20
31 December 2011.]

32
33 The Investigating Officer announced this was an
34 unclassified closed session; and the parties present were
35 counsel for both sides, hearing security officer, the accused,
36 personnel detailed to the defense and prosecution teams,
37 representative of relevant government agencies, and the
38 Investigating Officer's Legal Advisor and support staff.

39
40 The Investigating Officer announced the defense requested a
41 closed session to discuss disloyal statements made by the
42 accused to the witness that would be prejudicial if heard in an
43 open forum, which was denied.

44
45 The Investigating Officer announced he would reconsider the
46 denial.

1 Both parties maintained the previous positions submitted to
2 the Investigating Officer for consideration.

3
4 The Investigating Officer placed his findings on the record
5 reversing the denial of the defense request to close the hearing
6 citing the accused's right to a fair trial was an overriding
7 interest.

8
9 **JIRLEAH SHOWMAN, Civilian, was recalled as a telephonic witness**
10 **for the government, was reminded of her previous oath, and**
11 **testified in substance as follows:**

12
13 **DIRECT EXAMINATION**

14
15 **Questions by Assistant Trial Counsel 2:**

16
17 I discussed PFC Manning's opinion about the military with
18 him. He told me he joined to earn money for college and to get
19 computer knowledge and training. When he was asked what the
20 U.S. flag meant to him he said it did not mean anything to him
21 and he held no allegiance to this country or its people.

22
23 **CROSS-EXAMINATION**

24
25 **Questions by the defense counsel:**

26
27 That conversation took place during a verbal counseling
28 session between me and PFC Manning. It was during a counseling
29 session; his behavior initially indicated that he didn't care
30 what I was saying; I wouldn't say that he was happy about being
31 counseled. He was rarely happy, and I do not know if his mood
32 changed during the counseling session. PFC Manning showed a
33 lack of respect towards anything that occurred. I do agree that
34 at the time I was counseling him he was not happy. I was trying
35 to see where he was coming from, so I asked him why he joined
36 the Army, and that is when he responded to the flag meant
37 nothing to him and he no allegiance to the United States. I was
38 upset when he said that, I raised my voice, but I do not
39 remember exactly what I said. I believe I said that he had no
40 business joining the military. I don't know PFC Manning's
41 intentions for anything he said. I am not sure if he was saying
42 to push my buttons. Regardless it was something that he knew
43 not to say. That is not a joking matter for an Intel analyst.
44 I told Master Sergeant Adkins that I did not trust PFC Manning
45 and he should not deploy with us. I was not aware that Master
46 Sergeant Adkins denied hearing it from me. It does surprise me
47 that he denied me telling him that.

1
2 **EXAMINATION BY THE INVESTIGATING OFFICER**
3

4 **Questions by the Investigating Officer:**
5

6 This conversation took place following the JRTC rotation
7 within months of us deploying.
8

9 [The Article 32 hearing recessed at 1004, 20 December
10 2011.]
11

12 [The Article 32 hearing was called to order at 1013, 20
13 December 2011.]
14

15 The Investigating Officer opened the hearing, and stated
16 that the closed session determination will be put on the record.
17

18 **JIRLEAH SHOWMAN, Civilian, was recalled as a witness for the**
19 **prosecution, was reminded of her previous oath, and testified in**
20 **substance as follows:**
21

22 **CROSS-EXAMINATION**
23

24 **Questions by the civilian defense counsel:**
25

26 I supervised PFC Manning before deploying; I became his
27 supervisor in March 2009. I had daily contact with PFC Manning.
28 There was an incident in where he did not show up for PT. I
29 went to his room to find out where he was. When I got there he
30 appeared to have just woken up; he was still in civilian
31 clothes. I told him to get dressed and to get downstairs right
32 away. He walked from his barracks room to formation. PFC
33 Manning did not respond to anything that I was telling him. I
34 asked him why he was not in formation. I do not remember him
35 responding to anything that I was telling him. I had to counsel
36 him and require him to show up early to formations for
37 corrective training. PFC Manning screamed and started jumping
38 up and down, flapping his arms. He was extremely loud, swinging
39 his hands around. His body language was very aggressive. I
40 stepped back from him. His screaming lasted several seconds.
41 Master Sergeant Adkins approached PFC Manning and then he
42 quieted down. PFC Manning was frustrated. Master Sergeant
43 Adkins asked PFC Manning what the problem was, and PFC Manning
44 responded that he was frustrated. PFC Manning said that he did
45 not like to mess up, I counseled him after that incident. I
46 also recommended UCMJ action, because he disrespected Master
47 Sergeant Adkins and me. He lost his military bearing. Master

1 Sergeant Adkins recommended UCMJ but he did not follow up on
2 those.

3
4 Following that incident, I required PFC Manning to go to
5 behavioral health. To my knowledge, no one in the chain of
6 command alerted the Commander of the incident. I recommended to
7 Master Sergeant Adkins that further action was needed and PFC
8 Manning was a threat and he should not be handling classified
9 information and should not deploy.

10
11 **OBJECTION**
12

13 The trial counsel objected to the line of questioning
14 stating lack of foundation.

15
16 The civilian defense counsel replied that the purpose of an
17 Article 32 hearing is discovery for the defense.

18
19 The Investigating Officer informed the civilian defense
20 counsel to limit his line of questioning.

21
22 **The cross-examination by the civilian defense counsel continued**
23 **as follows:**
24

25 I do not know if Master Sergeant Adkins informed the
26 Commander. I believe PFC Manning was unstable as one of the
27 reasons why he should not deploy. I saw PFC Manning freeze when
28 he was asked a question by the Lieutenant. He was
29 nonresponsive. I asked him what was wrong and he didn't speak.
30 I felt he was not processing what I had said. I told Master
31 Sergeant Adkins what happened. We both asked PFC Manning what
32 was going on. PFC Manning said he felt paranoid and people were
33 listening to his conversations. He did not trust anyone in the
34 unit or around him. He said he was not suicidal and did not
35 want to hurt himself. I asked him if he heard voices he said
36 no. I was trying to determine if he had. I am not a medic, but
37 I was trying to see if he had psychotic issues. He had an
38 elevated level of paranoia.

39
40 PFC Manning was not functioning in the office. He was not
41 able to do simple tasks. I confronted him about not getting
42 work done. He used the excuse for being tasked for a cleanup
43 detail. He showed no indication of gender identity disorder.
44 Based on all of this I recommended to Master Sergeant Adkins
45 that PFC Manning not deploy or have access to classified
46 information. Master Sergeant Adkins told me he spoke to someone
47 but I do not know if it was the commander. I told Master

Sergeant Adkins that PFC Manning should be command directed to behavioral health, but it did not happen. I was not happy when PFC Manning's name was on the list to deploy. I talked to Master Sergeant Adkins again and was told the decision was made and I had to deal with it.

We deployed to Iraq on 11 October 2009. I was the night shift NCOIC of the T-SCIF. I had PFC Manning and PFC Cooley under me. Master Sergeant Adkins decided who would be on dayshift, but I could be wrong. Master Sergeant Adkins was the overall NCOIC. He decided who would be on the nightshift. We did not have much say over the Soldiers we were in charge of. Everything went through Master Sergeant Adkins. Master Sergeant Adkins oversaw all equipment and Soldiers. Soldiers were not being counseled as they should have been. Major Clausen was the Brigade S2. He was not in the SCIF and was in his office. CW2 Hack did not have the authority to counsel me. I was counseled by Master Sergeant Adkins. I was counseled once during the entire deployment.

I witnessed the incident between PFC Manning and SPC Padgett. It happened towards the end of December. I heard PFC Manning screaming. I walked to the door to see what was going on. I saw PFC Manning on one side of the table and SPC Padgett on the other. I saw PFC Manning flip the table. The computer hit the ground. I found out later that it was broken. I saw PFC Manning approach SPC Padgett, and he was trying to talk PFC Manning down. PFC Manning looked around the room, he was about to reach for an M4 rifle. CW2 Ehresman grabbed PFC Manning from behind and locked his arms up. PFC Manning was in the full nelson position. There was no formal punishment to my knowledge; I don't know why. I told Master Sergeant Adkins about the incident and told Master Sergeant Adkins that PFC Manning had no business in the SCIF.

I know what the DEROG process is. We have a responsibility to report DEROG information. When PFC Manning's clearance was suspended I helped the Commander file the paperwork. To initiate a DEROG the Commander will indicate what the action was that lead to the DEROG, make a recommendation, and check a box if the individual clearance should be suspended or terminated. I felt they tried to keep everything that happened within the S2 internal. The incident between PFC Manning and SPC Padgett should not have remained in house. The 1SG found out about the incident from CW2 Hack. PFC Manning and I had to go see 1SG. After seeing 1SG, a short time later in the deployment I saw PFC

1 Manning rolled up in a ball. I reported it to CW2 Ehresman. I
2 told him to be ready for something to happen.

3
4 I left the TSCIF at the end of my shift. I was called back
5 there around midnight. I was assaulted by PFC Manning. I stood
6 up and pinned him to the ground after he hit me. PFC Manning
7 told me he was scared of what behavioral health would find out
8 and that he would be removed from the Army.

9
10 I found what later became known as the *Collateral Murder*
11 video. I was going through some folders that belonged to the
12 fires section working for CW2 Hack. I came across the video
13 while I was training to improve professional development. Chief
14 and I watched the video and he would go over how his section
15 responded. Chief was grooming me to be a target analyst for
16 future deployments. There were other people that watched it
17 with us. They were discussing what we were seeing in the video.
18 There was no Rules of Engagement discussion that I recall.

19
20 **REDIRECT EXAMINATION**

21
22 **Questions by Assistant Trial Counsel 2:**

23
24 PFC Manning helped me put MIRC Chat on my computer. He had
25 the most knowledge of computers. I used it to talk to fellow
26 targeting sections. PFC Manning never told me he was chatting
27 with Julian Assange. We were never allowed to take classified
28 information outside of the SCIF. We all signed Nondisclosure
29 Agreements.

30
31 **RECROSS-EXAMINATION**

32
33 **Questions by the civilian defense counsel:**

34
35 I don't remember what regulation was behind the NDA.

36
37 [The witness was permanently excused, duly warned, and
38 ended the phone call.]

39
40 [The Article 32 hearing was recessed at 1055, 20 December
41 2011.]

42
43 [The Article 32 hearing was called to order at 1113, 20
44 December 2011.]

45
46 All parties present prior to the recess were once again
47 present.

11

11

11

11

11

11

SWORN STATEMENT

For use of this form, see AR 190-45; the proponent agency is PMG.

PRIVACY ACT STATEMENT

AUTHORITY: Title 10, USC Section 301; Title 5, USC Section 2951; E.O. 9397 Social Security Number (SSN).

PRINCIPAL PURPOSE: To document potential criminal activity involving the U.S. Army, and to allow Army officials to maintain discipline, law and order through investigation of complaints and incidents.

ROUTINE USES: Information provided may be further disclosed to federal, state, local, and foreign government law enforcement agencies, prosecutors, courts, child protective services, victims, witnesses, the Department of Veterans Affairs, and the Office of Personnel Management. Information provided may be used for determinations regarding judicial or non-judicial punishment, other administrative disciplinary actions, security clearances, recruitment, retention, placement, and other personnel actions.

DISCLOSURE: Disclosure of your SSN and other information is voluntary.

1. LOCATION 2/10 MTN DIV, Fort Drum, New York	2. DATE (YYYYMMDD) 2011/01/19	3. TIME 1300	4. FILE NUMBER
5. LAST NAME, FIRST NAME, MIDDLE NAME Showman, Jihreah Wittney	6. SSN 208-68-0036	7. GRADE/STATUS E4/AD	
8. ORGANIZATION OR ADDRESS S2, 2nd BCT, 10th MTN DIV, Fort Drum NY			

9. Jihreah Wittney Showman, WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH.

Q: What is your name, rank, SSN, and duty position?
A: Jihreah Wittney Showman, SPC, 208-68-0036, BCT Security Specialist

Q: When did you first come to know PFC Manning?
A: MAR of 09 when he got to the unit. I was arriving to the unit and was told by MSG Adkins that I would be the team leader of the 35Fs.

Q: Tell me about the incident in the spring when Manning missed PT formation.
A: He missed PT Formation in APR or MAY, there was still snow on the ground. I went to Manning's room to make sure he was alive, knocked on the door, and he answered, looking like he just woke up. I told him to get his PTs on and meet me at the entrance to the barracks. I was not yelling at him, I was telling him what to do. On the way out to formation, I explained to him in a very calm voice that he would have to report early to the company for PT to ensure that he was on time. I also told him I would have to give him a counseling for missing formation. We were approaching MSG Adkins in the company parking lot, when Manning froze in his tracks, started jumping up and down and waving his arms, yelling to the point that saliva was coming out of his mouth. MSG Adkins approached Manning and asked him in a calm voice what his problem was. After Manning calmed down, he explained that his outburst was because he can't handle it when he makes mistakes or messes up. He was counseled later that day and his corrective training was to report to me at the company 20 minutes early for PT every day for about month. He started showing up on time after that.

Q: Was any thought given to not deploying Manning?
A: Yes, I was asked by MSG Adkins a lot about Manning's mental state. If I dealt with Manning, I was asked because I was his first line supervisor. Initially, Manning went to Behavioral Health here at Drum, but since it was self-referral we never got any data back from his appointments and no follow-ups were scheduled. Actually, several incidents occurred that should have led to Manning not deploying: emotional break downs—he would freeze emotionally; he stated that he felt no loyalty to this nation, that the flag on his shoulder meant nothing to him; he stated several times that he felt paranoid, that he felt people were listening in on him; at one point he described to me that in the process of joining the Army that he had to scrub the internet of anything with his name on it or he wouldn't have gotten a security clearance. He told me that these things were blogs and expressed that if the military had seen his blogs that he never would have gotten a security clearance. I promptly filled MSG Adkins in on that conversation and I thought that was extreme for a person with a TS clearance and talked to MSG Adkins about it. He went to our OIC MAJ Clausen, from my understanding, there was nothing on paper that could have proved Manning should have stayed behind. That was due to our shop keeping everything internal and not telling the company commander. We did get Manning to go back to Behavioral Health. We don't know what was discussed because it wasn't command referred. That by itself, along with Manning not being able to handle a day at work without an emotional breakdown should have caused him to stay here. I even used the phrase "possible spy" to MSG Adkins during this time.

10. EXHIBIT	11. INITIALS OF PERSON MAKING STATEMENT <u>Jihreah Wittney Showman</u>	PAGE 1 OF 4 PAGES
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ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF _____ TAKEN AT _____ DATED _____"

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED.

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF Showman, Jihreah Wittney

TAKEN AT 1300

DATED 2011/01/19

9. STATEMENT (Continued)

Q: So you don't know who decided to deploy with Manning?

A: No, it could have stayed at the S2 level or he may have brought it to the BCT Staff. All MSG Adkins told me was that he brought it to the S2.

Q: About how often did he have these outbursts?

A: At least once a week. He would have incidents where he couldn't work if he was corrected. He would go completely rigid if he was corrected on anything. Almost on a daily basis. Even to the point that we had to lay down the foundation for how Soldiers were to interact with Officers because the work environment was getting a little too friendly and the Soldiers were losing their military bearing. Even after that, where I briefed the whole shop on it, Manning got rigid and unresponsive again. It got to the point where LT Fields had to go over and check if Manning was breathing.

Q: What was that like as his supervisor?

A: It was frustrating, whatever way we could give him a task and he was allowed to do it, he was fine, but any detour from that track for him mentally would cause him to freeze and he would become emotionally unstable for a short period of time.

Q: What was the effect of Manning's behavior on the rest of the section?

A: Hard to say. It got them in trouble often. When one Soldier would mess up, we would bring them all into the conference room to address it with SGT Mitchell. They were constantly being corrected and having to learn the rules again. It made them less productive.

Q: During deployment, what was your job?

A: I was initially the NCOIC of the Fusion Cell and Manning worked nights with me. This was during the RIP/TOA. About a month later, after we got Padgett to the shop, I was moved to targeting during the day and SPC Padgett took over on nights. In mid December, Manning was late to work twice and Padgett counseled him. This was when Manning flipped the table. I witnessed what happened just after the table was turned over because it was near shift change and I went to see what happened until Manning was subdued. I wasn't surprised. I was just counting down the days until he lost it, we all pretty much thought that way. Manning had physically gone after Padgett, thought about it, and then kind of gone for the M4 in the corner. That's when Chief Ehresman put him in a full Nelson.

Q: After Manning returned from EML, around FEB, he went back to days, what was that like?

A: Manning had no physical incidents because he was watched. He would still freeze up if people tried to get him back on track during a brief, but overall, he wasn't as bad as before. We tried to lighten things up with a newsletter in the SCIF that told funny stories because it was getting pretty serious.

Q: Was this about the time of the EO complaint?

A: I truly don't remember, but he was on days at the time—this allowed him to hear everybody's conversations. The EO complaint accused me of being hateful towards homosexuals because I used the word "faggoty" with reference to not being able to do so many pushups, not in reference to homosexuals. At some time, CPT Martin and Chief Ehresman and myself were talking about how they can't prove that President Obama was born in the United States and we mentioned that if that was true, then Arnold Schwarzenegger should run. What was reported to the EO office was that we had said the President Obama had an inability to lead this country because he was a foreigner, which was not the direction of the conversation. We all told the EO officer what the truth was and nothing was really done about it that I know of. We were asked to stop talking about anything that could offend people so we just stopped talking. Shortly before the incident with me, though, Manning started using words like "faggoty" and "gay" in a derogatory fashion, so I sent out a shop email reminding everyone of the EO complaint.

Q: Describe the incident when Manning attacked you.

A: I was called in to the office from my CHU and someone couldn't find a file on someone we were targeting. I walked into the SCIF and no one was really working, CPT Martin, SPC Bales, and LT Fields were in there. Manning was playing Zuma, the game on his computer. I asked if I could get a brief on the situation since no one was working on the task I was called in to research and Bales told me what they needed. I went to my workstation and asked where everyone had looked for the information and started to pull it up on my computer. At that time, Manning got up from his computer and walked over to me with his Coke can and told me he had already looked for the information and couldn't find it, that CPT Martin didn't know what she was talking about. While he paced back and forth, I fiddled with my computer and asked Manning if he had looked in a particular location on the Division Portal, Manning said yes they had I said they obviously hadn't because here it is and pulled it up on my screen. Manning asserted that they had done so and that there was no reason to berate the Soldiers in the SCIF. He was probably a good 4 feet away from me. I told him, "Manning how about you fix your shit before you tell me how to fix mine". He threw his hands up in the air, yelled "no" and rushed me. He punched me in the face and kind of body slammed me. Then I pushed my chair back, he rushed me again and I pinned him to the ground and screamed at him if this is what he wanted. He said a couple of times he was tired of this. Then SGT Taua had

INITIALS OF PERSON MAKING STATEMENT

PAGE 2 OF 4 PAGES

STATEMENT OF Showman, Jihleah Wittney

TAKEN AT 1300

DATED 2011/01/19

S2 STATEMENT (Continued)

We all knew this was going to happen. Nothing happened until the next day when LT Gaab changed the code on the cipher lock to the SCIF door and demanded that his weapon be taken away. The company commander was not informed and she had the MPs come over and take my statement. No one had taken my statement until then. I believe this was in an attempt to keep it internal to the S2 shop, but LT Gaab is very bold and I'm thankful for that because she wanted the company commander to know about it. We then immediately wrote up a derogatory report to have Manning's clearance pulled.

Q: What happened after the MP's took your statement?

A: The MPs detained Manning and he was moved out of the S2 shop. Then the Wikileaks investigation happened and we were interviewed that night.

Q: Who did Manning go to chow with?

A: A lot of the time, SPC Cooley would take him to chow in the rear. He would go to Pizza Hut here and walking to his room. On deployment, he would typically go with Cooley and then when they were separated and he was on days I would only see him walking from the Chow Hall back to his CHU.

Q: Did he have any friends?

A: Not that was made known. He typically was referred to as a loner. If he had friends they would be his opinion of friends, kind of one-sided friends that he talked to in the smoke pit kind of randomly.

Q: Did he ever go on pass?

A: In garrison, yes, he would always go back to DC, he would take a bus if he could afford it on four day weekends. He has an aunt in the area and his server is in the DC area and he would remote into it from here and Iraq.

Q: What about weekends?

A: He spent them in his room. Once he went to Mexico, NY to hang out with buddies or take a taxi to Watertown to go shopping. At least that's what he said. He didn't own a car, spent most of his money on computers and investments—he was always bragging about how much money he made with his investments.

Q: Anything you care to add?

A: in the Intel community there is a large disconnect between Soldier duties and Tech duties. This has caused large difficulties when leading these soldiers. All Soldiers must know how to fulfill the basic responsibilities of a Soldier and this has not been a standard in the tech MOS's, leaders must lead regardless of the MOS. a Soldier first a Tech second, Manning could not grasp how a true Soldier should be.

Manning had way too many windows open on his computer. No one else in the shop had as many windows open at once; in return no one else had their computers crash as many times either. The computer Tech had indicated many times that Manning overloaded his computer by opening to many windows and he was downloading to many things at once. He had to have his computer wiped multiple times during the deployment.

Command referral to Behavioral Health for flipping the table—I SG told me to talk to Manning about his command referral to Behavioral Health. This was an interesting interview—knew he would be chaptered out. This would have "negative effects on the world". He had said that if he is honest with the counselor that they would have to chapter him out and if he gets kicked out that it would affect the whole world. I informed him that he has no choice but to be honest with them.

That night before shift change Prior to Manning striking me in the face he sat on the floor in the conference room in a fetus position rocking back and forth.

and nothing follows

INITIALS OF PERSON MAKING STATEMENT

PAGE 3 OF 4 PAGES

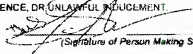
STATEMENT OF Showman, Jihleah WittneyTAKEN AT 1300DATED 2011/01/19

9. STATEMENT (Continued)

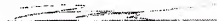
Nothing follows

AFFIDAVIT

I, Jihleah Wittney Showman, HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 4. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

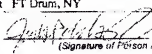

(Signature of Person Making Statement)

WITNESSES:


MAJ Nathan Ray SawyerORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 19th day of January, 2011
at FT Drum, NY


(Signature of Person Administering Oath)LTC Judd n P. Nelson JR.

(Typed Name of Person Administering Oath)

ART 136 (b) (4)

(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT
PAGE 4 OF 4 PAGES

[illegible]

v.

Manning, Bradley E.
PFC, U.S. Army,
HHC, U.S. Army Garrison,
Joint Base Myer-Henderson Hall
Fort Myer, Virginia 22211

**Prosecution Motion
for Preliminary Determination
of Admissibility of
MRE 404(b) Evidence**

Enclosure 5

3 August 2012



2d Brigade Combat Team (UA)
Brigade Operational
Law Team
COMPANYGRADE ARTICLE 15

Prepared by: SPC Walsh NCOIC review: _____TC review: OKNAME & RANK: MANNING, Bradley E. SPCUNIT: HHC, 2d BCTDATE RECEIVED: 17 May 2010DATE TO TC: 17 May 2010DATE TO UNIT: 17 May 2010DATE READ TO SOLDIER: 17 May 2010TDS APPOINTMENT: BOLT will coordinate TDS appointmentsDATE OF FINAL ACTION: 17 May 2010

DATE RETURNED TO LEGAL CENTER: _____

PERSONAL IN NATURE

BOLT 674-7949 SVOIP

FOUO

ARTICLE 15 RIGHTS, MAXIMUM PUNISHMENTS, AND FILING

Article 15, UCMJ, is a federal law that permits commanding officers to conduct non-judicial proceedings for minor offenses. A Soldier may refuse Article 15 proceedings and demand trial by court-martial, unless attached to or embarked on a vessel. A Commander may find a Soldier guilty of an offense at an Article 15 proceeding only after being convinced beyond a reasonable doubt that the Soldier is guilty.

SOLDIERS HAVE THE FOLLOWING RIGHTS AT AN ARTICLE 15 PROCEEDING:

- To refuse Article 15 proceedings and demand trial by court-martial. If the Soldier is attached to or embarked on a vessel, he or she is not permitted to refuse Article 15 proceedings. If a Soldier demands trial by court-martial, the trial could be a Summary, Special, or General Court-Martial. A Soldier may object to trial by Summary Court-Martial. At a Special or General Court-Martial, a Soldier is entitled to be represented by qualified military defense counsel, or by civilian counsel at no expense to the government.
- To request an open or closed hearing.
- To request a person to speak on his or her behalf.
- To invoke his or her rights under Article 31(b), UCMJ, to remain silent and to not make any statement regarding the offense(s) for which the Article 15 hearing is held. If the Soldier makes a statement, that statement may be used as evidence in a later trial by court-martial.
- To present matters in defense, extenuation, or mitigation.
- To discuss the Article 15 and its proceedings with an attorney in private before making these elections.
- To appeal the findings and punishment to the next superior authority.

MAXIMUM PUNISHMENTS UNDER A FORMAL ARTICLE 15 FOR ENLISTED SOLDIERS IF IMPOSED BY:

A Company Grade Officer: An oral or written reprimand, restriction for 14 days, extra duty for 14 days, correctional custody for 7 days (if the Soldier is in the grade of E-3 or below and if a correctional custody facility is available), reduction of one grade (if the Soldier is in the grade of E-4 or below), and forfeiture of 7 days' pay. The amount of the forfeiture is computed at the reduced grade, even if suspended, if reduction is part of the punishment imposed.

A Field Grade or General Officer: An oral or written reprimand, restriction for 60 days, extra duty for 45 days, correctional custody for 30 days (if the Soldier is in the grade of E-3 or below and if a correctional custody facility is available), reduction of one or more grades (if the Soldier is in the grade of E-4 or below), reduction of one grade if the Soldier is in the grade of E-5 or E-6, and forfeiture of 1/2 of one month's pay for two months. The amount of the forfeiture is computed at the reduced grade, even if suspended, if reduction is part of the punishment imposed. When restriction is combined with extra duty, the maximum period of restriction is 45 days.

MAXIMUM PUNISHMENTS UNDER ARTICLE 15 FOR COMMISSIONED & WARRANT OFFICERS IF IMPOSED BY:

A Company Grade Officer or Field Grade Officer: A written reprimand and restriction for 30 days. *Note: The authority of company and field grade officers to impose Article 15 punishment on fellow officers is typically withheld by the General Court-Martial Convening Authority (GCMCA). Check with the command's Staff Judge Advocate before attempting to take action.*

A General Officer or GCMCA: A written reprimand, arrest in quarters for 30 days, restriction for 60 days, and forfeiture of 1/2 of one month's pay for two months.

THE FILING OF ARTICLE 15 FORMS & REVIEW BY DA CAREER MANAGERS AND SELECTION BOARDS:

If a Commander finds a Soldier in the rank of Sergeant (E-5) or above guilty of one or more offenses at an Article 15 proceeding and imposes punishment, the Commander must file the Article 15 form in either the Soldier's Official Military Personnel File (OMPF) performance or restricted fiche. MOS/specialty career managers and DA Selection Boards routinely use the OMPF performance fiche. The OMPF restricted fiche is not given to MOS/specialty career managers or DA selection boards without the approval of the Commander, HRC or selection board proponent. If the soldier is in the grade of E-4 or below at the start of an Article 15 proceeding and punishment is imposed, the form will be maintained locally and no filing in the OMPF, either in the performance or the restricted fiche, is authorized. AR 27-10, Chapter 3 provides detailed rules governing requests to transfer an Article 15 from a Soldier's performance fiche to his or her restricted fiche.

THE NEED TO IMPROVE STANDARDS OF PERFORMANCE AND CONDUCT: Soldiers found guilty at an Article 15 proceeding are considered to be on notice that they must improve their conduct and performance. An Article 15 may form the basis, either in whole or in part, for an administrative separation action that results in a less than honorable discharge. Soldiers are strongly encouraged to exhibit the behavior necessary to receive an Honorable Discharge. If not, one or more of the following situations may occur:

- The Soldier may be separated with a General Discharge under Honorable Conditions or with an Other Than Honorable Discharge.
- A Soldier separated with less than an honorable discharge may be barred from ever enlisting again, may encounter problems securing civilian employment, and may forfeit the many benefits generally associated with an Honorable Discharge.
- The Soldier should be aware that the likelihood of upgrading a less than honorable discharge, while possible, is unlikely.

FOUO

SWORN STATEMENT

For use of this form, see AR 190-45; the proponent agency is PMG

PRIVACY ACT STATEMENT

AUTHORITY: Title 10 USC Section 301, Title 5 USC Section 2951; E.O. 9397 dated November 22, 1943 (SSM)

PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately identified

ROUTINE USES: Your social security number is used as an additional/alternate means of identification to facilitate filing and retrieval

DISCLOSURE: Disclosure of your social security number is voluntary

1 LOCATION Fob Hammer, 2nd BDE SCIF	2 DATE (YYYYMMDD) 2010/05/08	3 TIME 0301	4 FILE NUMBER
5 LAST NAME, FIRST NAME, MIDDLE NAME Showmaan, Jihreah W	6 SSN 208-68-0036	7 GRADE/STATUS E4	
8 ORGANIZATION OR ADDRESS HHC 2BCT, 10MTN, Fob Hammer Iraq			

4. Jihreah Wittney Showman, WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

On 08 May 2010 between the hours of 0001 and 0100 I was called into work. While performing my task I was asking many questions of the other Soldiers in the SCIF. SPC Manning began pacing the floor next to me drinking a soda. He came over and said that they had already conducted the searches that I was performing on the computer and that I needed to calm down. I was sitting in my seat focusing on my task, he was to the right of me. He then said that I lashed out on everyone in the room, I said "I did not lash out". He said I did. At this time I said Manning you should fix your shit before you tell me how to fix mine. He then yelled (I believe he yelled no). Then in a matter of seconds he began swinging his arms while screaming, he then ran towards me (I was sitting). His whole body made contact with me and, his fist struck my right jaw. Once his fist made contact with my face I jumped up and grabbed him as he continued to fight me, I brought him to the ground and laid on him holding his hands to the ground in order to subdue him. SSG Taua and CPT Martin came over, and once SPC Manning stopped trying to fight I was told to let him up, I then let him up. At no time prior to SPC Manning making physical contact with me did I threaten or make any movement towards him that would provoke any such behavior. CPT Martin, SSG Taua, SPC Shim and PFC Bales were in the SCIF during this event.

NOTHING FOLLOWS

10 EXHIBIT

11 INITIALS OF PERSON MAKING STATEMENT

PAGE 1 OF 2 PAGES

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF _____ TAKEN AT _____ DATED _____"

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED.

STATEMENT OF Jihrlcah Wittney Showman *JS* TAKEN AT Fob Hammer DATED 2010/05/08

9. STATEMENT (Continued)

JS
JS Nothing
Follows JS
JS

AFFIDAVIT

I, Jihrlcah Wittney Showman, HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE ____ I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

(Signature of Person Making Statement)

WITNESSES

Subscribed and sworn to before me, a person authorized by law to administer oaths, this ____ day of _____ at _____

(Signature of Person Administering Oath)

ORGANIZATION OR ADDRESS

(Typed Name of Person Administering Oath)

ORGANIZATION OR ADDRESS

(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT *JS*PAGE 2 OF 2 PAGES *JS*

SWORN STATEMENT

For use of this form, see AR 190-45, the proponent agency is PMG

PRIVACY ACT STATEMENT

AUTHORITY: Title 10 USC Section 301, Title 5 USC Section 2951, E.O. 9397 dated November 22, 1943 (SSN)
PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately identified.
ROUTINE USES: Your social security number is used as an additional/alternate means of identification to facilitate filing and retrieval
DISCLOSURE: Disclosure of your social security number is voluntary.

1 LOCATION <i>Fob Hamme</i>	2 DATE (YYYYMMDD) <i>20100508</i>	3 TIME	4 FILE NUMBER
5 LAST NAME, FIRST NAME, MIDDLE NAME <i>Shawman, Tibrah Witting</i>	6 SSN <i>208-66-0026</i>	7 GRADE/STATUS <i>E4</i>	
8 ORGANIZATION OR ADDRESS <i>HHC 2BCT 10th MTN DIV (5-2)</i>			
9 <i>Shawman, Tibrah Witting</i> TO MAKE THE FOLLOWING STATEMENT UNDER OATH <p>on 08 May 10 between 0600 and 0800 I was called into work. While performing my duty, I asked the other soldier many questions about what was done before I was called in. SPC Manning began pacing the floor to the right of me drinking and he came over and said that they had already conducted the searches that I was performing SPC Manning then told me I need to calm down I was sitting and he was standing over me whispering. he also said that I didn't need to lash out on anyone in the SCIF I told him I didn't lash out on anyone. I was still sitting at the time I told SPC Manning that he should fix his shirt before swinging his arms. I was still sitting. at this time he ran about 4 steps towards me and punched me in the face. His fist made contact with my right jaw his whole body made contact with my right jaw sitting after his fist hit my face I jumped up and pointed I brought him to the ground and laid all my weight flat hit me again once he calmed down SPC Tava asked me to</p>			
10 EXHIBIT	11 INITIALS OF PERSON MAKING STATEMENT <i>SW</i>	PAGE 1 OF <u>2</u> PAGES	
ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF _____ TAKEN AT _____ DATED _____"			
THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED			

FOUO

STATEMENT OF Jihleah Shewman AT Fob Hammer DATED 20100508

9 STATEMENT (Continued)

let him go so i did. At no time did i make any
Movement towards SFC Manning or make any Provoking
Comments prior to him making contact with me.
CPT Martin, SSG Taha, SFC Shim and PFC Balz all
were in the SCIF while this event occurred

Q: Is there anything else you would like to add to this statement?

A: NO // END OF STATEMENT //

Shewman

AFFIDAVIT

I, Jihleah Whitney Shewman HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT
WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 2 I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE
BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE
CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT
THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

WITNESSES:

ORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

[Signature]
(Signature of Person Making Statement)Subscribed and sworn to before me, a person authorized by law to
administer oaths, this 8 day of MAY 2010at Fob Hammer[Signature]
(Signature of Person Administering Oath)Baker Eric S
(Typed Name of Person Administering Oath)Article 136(b)(4) NCMS
(Authority To Administer Oaths)INITIALS OF PERSON MAKING STATEMENT
ShewmanPAGE 2 OF 2 PAGES

SWORN STATEMENT

For use of this form, see AR 190-45, the proponent agency is PMG

PRIVACY ACT STATEMENT

AUTHORITY: Title 10 USC Section 301, Title 5 USC Section 2951, E.O. 9397 dated November 22, 1943 (SSN)
PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately identified
ROUTINE USES: Your social security number is used as an additional/alternate means of identification to facilitate filing and retrieval
DISCLOSURE: Disclosure of your social security number is voluntary

1 LOCATION COS Hammer BDE SCIF	2 DATE (YYYYMMDD) 2010/05/08	3 TIME 03:04	4 FILE NUMBER
5 LAST NAME, FIRST NAME, MIDDLE NAME Shim, Paul, Kyu Sik	6 SSN 124-64-5859	7 GRADE/STATUS E-4/SPC	
8 ORGANIZATION OR ADDRESS 2bct 10mtn (LI) HHC, S2			

9. I, Spc Shim, Paul, WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH

Between 1200 and 1230 hours I was working on my computer when I Spc Showman, Jhrleach entered the BDE SCIF. She arrived and was a bit upset about being called back into work. She made a few statements asking us if we searched various areas on the shared data drive in order to find a certain file we needed to obtain for Major Ford. I was not tasked to find that file but Spc Manning Bradley was. He seemed a bit angry with her outbursts and began to pace around the scif. I proceeded to go back to my work on my own computer when I heard Spc Showman say to Spc Manning "You better check yourself". Spc Manning froze and said "hey". Then he punched her on the side of her head. She got up and they proceeded to wrestle. She threw him to the ground, jumped on top of him and pinned him to the ground.

She said "calm down" "calm down". And he said "I am calm". She replied "why did you punch me then". He said "I don't know why I punched you, I'm just tired of all this shit". SSG Tau took charge and grabbed Manning and told him to go outside and cool off. He said "I'm tired of all this shit" and walked off.

NOTHING
FOLLOWS

NOTHING
FOLLOWS

NOTHING
FOLLOWS

NOTHING
FOLLOWS

10. EXHIBIT

11. INITIALS OF PERSON MAKING STATEMENT

PAGE 1 OF 2 PAGES

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF _____ TAKEN AT _____ DATED _____"

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED.

DA FORM 2823, DEC 1998

DA FORM 2823, JUL 94, OBSOLETE

APO PE v1.01

SWORN STATEMENT

For use of this form, see AR 190-45, the proponent agency is PMG

PRIVACY ACT STATEMENT

AUTHORITY: Title 10 USC Section 301; Title 5 USC Section 2951; E.O. 9397 dated November 22, 1993 (SSN)
PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately identified
ROUTINE USES: Your social security number is used as an additional/alternate means of identification to facilitate filing and retrieval
DISCLOSURE: Disclosure of your social security number is voluntary

1. LOCATION Brigade SCIF on COS HAMMER, Iraq	2. DATE (YYYYMMDD) 2010/05/08	3. TIME 00:01 - 01:00hrs	4. FILE NUMBER
5. LAST NAME: FIRST NAME, MIDDLE NAME Taua, Julia Marie	6. SSN	7. GRADE/STATUS E-6 / AD	
8. ORGANIZATION OR ADDRESS HHC 2BCT 10MTN DIV			

9 I, Julia M. Taua, WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH

On 08 May 2010 between 00 01hrs and 01 00hrs I broke up a scuffle that broke out in the BDE SCIF between SPC Jirleah Showman and SPC Bradley Manning

Words were exchanged between the two soldiers. Then I heard the other soldiers in the SCIF react to what sounded like people struggling with one another. I turned to see what was going on and saw both SPC Showman and SPC Manning laid out on the ground

I walked up to them and saw where SPC Showman had SPC Manning pinned to the ground telling him that he "needed to calm down" before she let him up. SPC Manning was red in the face and struggling to get out from under SPC Showman

It was at that point that I separated the two soldiers. I tapped SPC Showman on the shoulder and said "Let him up" SPC Showman immediately got up then helped me get SPC Manning to his feet. SPC Manning got up off the ground, walked to the other side of the SCIF saying repeatedly "I'm just tired of this"

I turned to SPC Showman with a "What The Heck just happened?" look on my face, she mouthed back to me and actioned with her hand "He punched me in the face". I turned to SPC Manning who was standing and shaking his head near the front of the SCIF (still saying to no one in general but out loud for all to hear "I'm just tired of this") and told him that I needed to speak with him outside. I led him out of the SCIF and to a separate room where he was met by MSG Adkins and taken out of my custody

10. EXHIBIT	11. INITIALS OF PERSON MAKING STATEMENT 	PAGE 1 OF <u>2</u> PAGES
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ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF _____ TAKEN AT _____ DATED _____"

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED

DA FORM 2823, DEC 1998

DA FORM 2823, JUL 72, IS OBSOLETE

AFD PE 11 21

STATEMENT OF

Julia M Tana

TAKEN AT

DATED

2010/05/08

9 STATEMENT

(Continued)

— NOTHING FOLLOWS —

AFFIDAVIT

I, Julia Marie Tana, HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 1. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

(Signature of Person Making Statement)

WITNESSES

Subscribed and sworn to before me, a person authorized by law to administer oaths, this _____ day of _____ at _____

ORGANIZATION OR ADDRESS

(Signature of Person Administering Oath)

(Typed Name of Person Administering Oath)

ORGANIZATION OR ADDRESS

(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

PAGE 2 OF 2 PAGES

DATA REQUIRED BY THE PRIVACY ACT

AUTHORITY:

Title 10, United States Code, Section 3012(g)

PRINCIPAL PURPOSE:

To provide commanders and law enforcement officials with means by which information may be accurately identified

ROUTINE USES:

Your Social Security Number is used as an additional/alternate means of identification to facilitate filing and retrieval

DISCLOSURE:

Disclosure of your Social Security Number is voluntary

1 LOCATION FOB HAMMER IRAQ	2 DATE 20100508	3 TIME 0950	4 FILE NO
5 NAME (Last, First, MI) MANNING, BRADLEY E.	8 ORGANIZATION OR ADDRESS HHC BDE 10 MTN FOB HAMMER APO AE 09308		
6 SSN 445-98-9504	7 GRADE/STATUS E4/RA		

PART I - RIGHTS WAIVER/NON-WAIVER CERTIFICATE

Section A. Rights

The investigator whose name appears below to d me that he/she is with the United States Army

Military PoliceI am wanted to question me about the following offense(s) of which I am
FOB HAMMER PMO
Assault

Before he/she asked me any questions about the offense(s), however, he/she made it clear to me that I have the following rights

- I do not have to answer any question or say anything
- Anything I say or do can be used as evidence against me in a criminal trial
- (For personnel subject to the UCMJ) I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. This lawyer can be a civilian lawyer I arrange for at no expense to the Government or a military lawyer detailed for me at no expense to me, or both

- or -

(For civilians not subject to the UCMJ) I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. I understand that this lawyer can be one that I arrange for at my own expense, or if I cannot afford a lawyer and want one, a lawyer will be appointed for me before any questioning begins

- If I am now willing to discuss the offense(s) under investigation, with or without a lawyer present, I have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if I sign the waiver below

5 COMMENTS (Continue on reverse side)

HAVE YOU REQUESTED A LAWYER IN THE PAST 30 DAYS

Section B. Waiver

I understand my rights as stated above. I am now willing to discuss the offense(s) under investigation and make a statement without talking to a lawyer first and without having a lawyer present with me

WITNESSES (If available)		3 SIGNATURE OF INTERVIEWEE
1a NAME (Type or Print)		4 SIGNATURE OF INVESTIGATOR
b ORGANIZATION OR ADDRESS AND PHONE		
2a NAME (Type or Print)		5 TYPED NAME OF INVESTIGATOR
c ORGANIZATION OR ADDRESS AND PHONE		6 ORGANIZATION OF INVESTIGATOR

Section C. Non-waiver

- I do not want to give up my rights
☒ I want a lawyer ☒ I do not want to be questioned or say anything

2 SIGNATURE OF INTERVIEWEE

ATTACH THIS WAIVER CERTIFICATE TO ANY SWORN STATEMENT

(DA FORM 2823) SUBSEQUENTLY EXECUTED BY THE SUSPECT/ACCUSED

REPORT OF UNFAVORABLE INFORMATION FOR SECURITY DETERMINATION

For use of this form see AR 190-56 the proponent agency is ODCSOPS

1 REPORTING COMMANDER Freeburg, Matthew HHC, 2BCT, 10MTN (I.I) FOB Hammer APO, AE 09308		2 SUPPORTING SPECIAL SECURITY OFFICE (Sensitive Compartmented Information Only) SSO/SID, 10MTN (I.I) Fort Drum, NY 13601	
3 UNIT IDENTIFICATION CODE WBDAAA		4 SOCIAL SECURITY NUMBER [REDACTED]	
5a NAME (Last, first, MI) Manning, Bradley E.		5b ALIASES (Former/Maiden name) N/A	
6a DATE OF BIRTH (Year, month, day) 1987 DEC 17	6b PLACE OF BIRTH (State or Country) Oklahoma	7a RANK SPC	7b STATUS (see Item 15) E
8a CURRENT CLEARANCE Top Secret	8b SCI (Check appropriate box) <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	8c DATE GRANTED 20080115	8d DATE/TYPE OF INVESTIGATION SSBI
9 TYPE OF REPORT (Check appropriate box) <input checked="" type="checkbox"/> INITIAL <input type="checkbox"/> FOLLOW-UP <input type="checkbox"/> FINAL			
10 UNIT ACTION TAKEN (Check appropriate box) <input type="checkbox"/> SCI ACCESS SUSPENDED <input type="checkbox"/> COLLATERAL ACCESS SUSPENDED (873 Forwarded) <input type="checkbox"/> ACCESS NOT SUSPENDED			

11 BASIS OF REPORT

a OFFENSE/ALLEGATION

07 MAY 10 -- Soldier accused of assault & battery
Soldier allegedly struck a fellow Soldier in the face with a closed fist after a verbal altercation. Witnesses, including a commissioned officer, attested to the veracity of the accusation.

b ACTION TAKEN


Referred to JAG for legal action and behavioural health for further evaluation.

c CDR'S RECOMMENDATION

Recommend SPC Manning's TS clearance be temporarily revoked until a determination can be made as to the state of his mental health. SPC Manning will be referred by me for a file for duty mental evaluation.

12 INCLOSURES

N/A

13 DATE 09 MAY 11	14 TYPED NAME, GRADE, TITLE, AND AUTOVON NO Freeburg, Matthew. W. CPT, Company Commander	15 SIGNATURE OF SECURITY MANAGER/AUTHORIZED OFFICIAL 
----------------------	--	---

16 A - AAFES C - DA CIVILIAN (DAC) E - ACTIVE ENLISTED/DCS F - NAF G - ACTIVE GENERAL OFFICER I - INACTIVE USAR OTHER (Explain)	J - DAC AND ACTIVE USAR K - DAC AND INACTIVE USAR L - DAC AND ARNG M - DAC AND DOD AFFILIATION N - ARNG O - ACTIVE OFFICER	R - ACTIVE USAR S - SUMMER HIRE T - CIVILIAN CONTRACTOR W - ACTIVE WARRANT OFFICER X - RED CROSS Z - ROTC CADET
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DEVELOPMENTAL COUNSELING FORM

For use of this form, see FM 22-100, the proponent agency's TRADOC

DATA REQUIRED BY THE PRIVACY ACT OF 1974

AUTHORITY: 5 USC 301 Departmental Regulations, 10 USC 3013 Secretary of the Army and E.O. 9397 (SSN)

PRINCIPAL PURPOSE: To assist leaders in conducting and recording counseling data pertaining to subordinates

ROUTINE USES: For subordinate leader development IAW FM 22-100 Leaders should use this form as necessary

DISCLOSURE: Disclosure is voluntary

PART I - ADMINISTRATIVE DATA

Name (Last, First, MI) Manning, Bradley	Rank/Grade SPC	Social Security No. [REDACTED]	Date of Counseling 17 MAY 10
Organization HHC 2BCT, 10th MTN DIV (LI)		Name and Title of Counselor SGT Mitchell, Lawrence, PSG	

PART II - BACKGROUND INFORMATION

Purpose of Counseling: (Leader states the reason for the counseling, e.g. performance/professional growth or event-oriented counseling, and includes the leader's facts and observations prior to the counseling.)

Event-Oriented (Assault and Battery)

PART III - SUMMARY OF COUNSELING

Complete this section during or immediately subsequent to counseling.

Key Points of Discussion:

On 07 MAY 10, SPC Manning struck SPC Showman with a closed fist

THIS COUNSELING IS AN ATTEMPT TO CORRECT THE PROBLEM(S) DISCUSSED AND IS AN ATTEMPT TO REHABILITATE YOU AS A SOLDIER. YOU SHOULD UNDERSTAND THAT IF YOU ENGAGE IN FURTHER MISCONDUCT OR YOUR DUTY PERFORMANCE CONTINUES TO BE UNSATISFACTORY, YOU MAY BE PROCEEDED FOR ELIMINATION FROM THE ARMY UNDER THE PROVISIONS OF AR 635-200. IF ADMINISTRATIVELY SEPARATED FROM THE ARMY, YOU COULD RECEIVE FROM A GENERAL DISCHARGE UNDER HONORABLE CONDITIONS TO DISHONORABLE DISCHARGE, AND YOU SHOULD EXPECT TO ENCOUNTER SUBSTANTIAL PREJUDICE IN CIVILIAN LIFE. IN ADDITION, YOU MAY BE INELIGIBLE FOR MANY OR ALL VETERAN'S BENEFITS GRANTED UNDER BOTH FEDERAL AND STATE LAW. YOU MAY ALSO BE SUBJECT TO OTHER PUNITIVE AND NON-PUNITIVE MEASURES.

OTHER INSTRUCTIONS

This form will be destroyed upon: reassignment (other than rehabilitative transfers), separation at ETS, or upon retirement. For separation requirements and notification of loss of benefits/consentances and local directives and AR 635-200

Plan of Action: (Outlines actions that the subordinate do after the counseling session to reach the desired goals and must be specific enough to modify or maintain the subordinate's behavior and include a specified time line for implementation and assessment (Part IV below))

- Soldier will continue to receive BHU counseling and treatment on a weekly basis
- Soldier will move from the SCIF to work as prescribed by the HHC BDE 1SG until final adjudication of legal and medical proceedings is completed
- CDR will make recommendation regarding continued status of Soldier's clearance, and forward his recommendation to G2 S17 for CCF processing
- As investigation is ongoing, Soldier will not contact BDE S2 section personnel until further notice

Session Closing: (The leader summarizes the key points of the session and checks if the subordinate understands the plan of action. The subordinate agrees/disagrees and provides remarks if appropriate.)

Individual Counseled ☒ I agree ☐ disagree with the information above
Individual counseled remarks

Signature of Individual Counseled _____

Date 17 MAY 10

Leader Responsibilities: (Leader's responsibilities in implementing the plan of action)

Ensure Soldier is kept informed of proceedings and adjudication of case as it is made known.

Signature of Counselor _____

Date 17 MAY 10

PART IV - ASSESSMENT OF THE PLAN OF ACTION

Assessment: (Did the plan of action achieve the desired results? This section is completed by both the leader and the individual counseled and provides useful information for follow-up counseling.)

Counselor _____

Individual _____

Date of Assessment _____

Note: Both the counselor and the individual counseled must retain a record of the counseling.

RECORD OF PROCEEDINGS UNDER ARTICLE 15, UCMJ

For use of this form, see AR 27-10, Chapter 3; the proponent age: 30

0160-10-CID899-14463

NAME & SSN MANNING, Bradley E. [REDACTED]	GRADE E4	UNIT & LOCATION HHC, 2d BCT, COS Hammer, Iraq APO AE 09308	MONTHLY BASE PAY \$2,086.30
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1. I am considering whether you should be punished under Article 15, UCMJ, for the following misconduct:

In that you, did, at COS Hammer, Iraq on or about 8 May 2010, unlawfully strike SPC Jihreah Shoman in the face with a closed fist. This is in violation of Article 128, UCMJ

(END OF CHARGES)

2. Page three of this form lists your rights and the maximum punishment that may be imposed. In deciding what to do, you have the right to consult with legal counsel located at USA Trial Defense Service, Camp Liberty, Iraq APO AE 09344. You now have 48 hours to decide what to do.

DATE 24 May 10	NAME, RANK AND ORGANIZATION OF COMMANDER MATTHEW W. FREEBURG, CPT, HHC, 2D BCT	SIGNATURE <i>Matthew W. Freeburg</i>
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3. Having been afforded the opportunity to consult with counsel and understanding my rights listed on page three of this form, my decision is as follows: Initial appropriate blocks, date, and sign)

a. ☒ Demand trial by court-martial.b. ☒ I do not demand trial by court-martial and in the Article 15 proceedings:(1) I request the hearing be ☐ Open. ☒ Closed.(2) A person to speak in my behalf ☐ Is ☒ Is not requested.

(3) Matters in defense, extenuation, and/or mitigation:

☒ Are not presented. ☐ Are attached. ☐ Will be presented in person.

DATE 24 May 10	NAME AND RANK OF SERVICE MEMBER BRADLEY E. MANNING, SPC	SIGNATURE <i>Bradley E. Manning</i>
-------------------	--	--

4a. In a(n) ☐ Open ☒ Closed hearing, having considered all matters presented, I hereby make the following findings:☒ Guilty of All Specifications.☐ Guilty of Some Specifications (line out Not Guilty Specifications).☐ Not Guilty of All Specifications (line out all Specifications and sign below)

Based on my findings, I impose the punishments that are officially recorded in Item 6 of this form

4b. I direct that this DA Form 2627 be filed in the:

☐ Performance fiche of the OMPF.☐ Restricted fiche of the OMPF.☒ As a Soldier was an E-4 or below at start of proceedings.

4c. You are advised of your right to appeal to the next superior authority: Cdr, 2d BSTB within five (5) calendar days.

An appeal made after that time may be rejected as untimely. Punishment is effective immediately unless otherwise stated in Item 6.

DATE 24 MAY 10	NAME, RANK, AND ORGANIZATION OF COMMANDER MATTHEW W. FREEBURG, CPT, HHC, 2D BCT	SIGNATURE <i>Matthew W. Freeburg</i>
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5. (Initial appropriate block, date, and sign)

☒ I do not appeal.☐ I appeal but do not submit additional matters.☐ I appeal and submit additional matters.

DATE 24 May 10	NAME OF SERVICE MEMBER BRADLEY E. MANNING	SIGNATURE <i>Bradley E. Manning</i>
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DA FORM 2627 (Test) NOV 04 Page 1

FOUO

ARTICLE 15 PUNISHMENT WORKSHEET

Soldier's Data: SPC MANNING, Bradley E., HHC, 2d BCT, COS Hammer, Iraq APO AE09308

Imposing Commander: CPT Matthew W. Freeburg Type of Article 15: Company Grade Article 15

Reduction: Soldier may be reduced to E3.

Forfeiture: Maximum of 7 days' pay for one month, not to exceed the following.

If no reduction imposed: \$486.00

If Soldier reduced to E3 (whether or not suspended): \$446.00

Deprivation of Liberty Punishments:

Extra Duty: Maximum of 14 days. May be combined with Restriction.

Restriction: Maximum of 14 days. May be combined with Extra Duty. When combined, the maximum period cannot exceed the maximum period allowed for Extra Duty.

Reprimand: May be an oral or written reprimand.

Any punishment may be suspended for up to 180 days.

PUNISHMENT IMPOSED:

Reduction to the Grade of: E3. If suspended, then (suspended for NA days) or (reduction below the Grade of NA suspended for NA days).Forfeiture of \$ 446.00 (suspend \$ NA of the forfeiture for the number of months selected for a period of NA days).Extra Duty for NA days, (suspended for NA days).Restriction for NA days, (suspended for NA days).

(Normal limits are Company area, Dining/Medical Facility, Place of Worship, and Place of Duty)

Reprimand NA (Oral NA) (Written NA)

(Reprimands for enlisted Soldiers may be oral or written and oral is typically appropriate. Reprimands of commissioned or warrant officers must be in writing.)

Date Punishment Imposed: 24 Nov 06Commander's Initials: MWF

1000

LAW ENFORCEMENT SENSITIVE

For Official Use Only Law Enforcement Sensitive

Exhibit

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V.

Manning, Bradley E.
PFC, U.S. Army,
HHC, U.S. Army Garrison,
Joint Base Myer-Henderson Hall
Fort Myer, Virginia 22211

**Prosecution Motion
for Preliminary Determination
of Admissibility of
MRE 404(b) Evidence**

Enclosure 6

3 August 2012

APPELLATE EXHIBIT 250
PAGE REFERENCED: _____
PAGE ____ OF ____ PAGES

1
2 **STAFF SERGEANT PETER BIGELOW, U.S. Army, was called**
3 **telephonically as a witness for the prosecution, was sworn, and**
4 **testified in substance as follows:**

5
6 **DIRECT EXAMINATION**

7
8 **Questions by Assistant Trial Counsel 2:**

9
10 I am currently assigned to AFSOUTH Battalion Naples Italy,
11 Army Element of NATO. I knew the PFC Manning in Iraq. He worked
12 for me after fight with Showman in the SCIF. I was the HHC
13 Brigade Supply Sergeant. He worked for me until May and he was
14 taken into custody. He came to work for me maybe in April. I
15 can't honestly tell you, but I know it was after the
16 altercation. I had a SIPR and NIPR computer in the supply room
17 and my personal laptop so I could search websites where the Army
18 blocked. My personal computer was used to help me do my job. I
19 did not log into PFC Manning's accounts, to include his AKO, his
20 gmail, and his Amazon account. I did not know any of his
21 passwords. I did not search for or view the WikiLeaks.org
22 website. I did not search for Julian Assange on the supply room
23 computer. I have not googled the Global Address List on the
24 supply room computer. I never downloaded emails on the
25 Iraq.centcom.mil domain. I only emailed the theatre PBO on the
26 NIPR computer.

27
28 **CROSS-EXAMINATION**

29
30 **Questions by the civilian defense counsel:**

31
32 My personal laptop was not password protected. I gave
33 instructions to check personal email on my laptop, but do not
34 download crazy or unauthorized sites on my laptop that could get
35 me in trouble. I never gave access to other Soldiers. My clerk
36 had access, but she had her own NIPR access. She went to her
37 room and used her personal computer. I don't know if she used
38 it when I was not there.

39
40 [The witness was permanently excused, duly warned, and
41 ended the phone call.]

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Manning, Bradley E.
PFC, U.S. Army,
HHC, U.S. Army Garrison,
Joint Base Myer-Henderson Hall
Fort Myer, Virginia 22211

**Prosecution Motion
for Preliminary Determination
of Admissibility of
MRE 404(b) Evidence**

Enclosure 7

3 August 2012

UNITED STATES OF AMERICA

v.

Manning, Bradley E.
PFC, U.S. Army,
HHC, U.S. Army Garrison,
Joint Base Myer-Henderson Hall
Fort Myer, Virginia 22211

Prosecution Notice of Intent

to Present Evidence of
Other Crimes, Wrongs, or Acts

6 April 2012

1. Military Rule of Evidence (MRE) 404(b) requires the prosecution to provide reasonable notice of the general nature of other crimes, wrongs, or acts that the prosecution may use for a purpose other than character, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident, upon the request of defense.
2. The prosecution may present evidence of the following other crimes, wrongs, or acts:
 - a. The accused falsifying his SF86 to receive his security clearance;
 - b. The accused's violations of operations security and information security regulations before his deployment, such as during AIT which led to his corrective training;
 - c. The accused's stabbing of another Soldier with a pencil;
 - d. The accused's disloyal statements to SPC Showman;
 - e. The accused's conduct resulting in and following his counseling sessions prior to deployment;
 - f. The accused's disclosure of classified information to Mr. Adrian Lamo via chat;
 - g. The accused's compromise of other government closely held or classified information as found in the forensic reports, such as the Rules of Engagement, the C3 document, and the NCIS document;
 - h. The accused's disclosure of classified documents from the charged databases that are not the documents charged in Specifications 5, 7, 9, and 13 of Charge II;
 - i. The accused's violations of operations security and information security regulations during the deployment, including communicating other government closely held or classified information to those without clearances and downloading information from SIPRNET and removing it from the SCIF for unofficial purposes;
 - j. The accused's conduct resulting in and following his counseling sessions during deployment;
 - k. The accused's assault consummated by battery of SPC Showman; and

1. The accused's assault consummated by battery at the JRCF in Fort Leavenworth.
3. The prosecution will notify the defense of any additions to this notice and understands that this is a continuing obligation.



ANGEL OVERGAARD
CPT, JA
Assistant Trial Counsel

I certify that I served or caused to be served a true copy of the above on Defense Counsel, via electronic mail, on 6 April 2012.



ANGEL OVERGAARD
CPT, JA
Assistant Trial Counsel

the Article 32 investigation as well as Enclosure 6 of the Government's motion for the limited purpose of this motion .

LEGAL AUTHORITY

Court Closure

RCMs 806 and 912

U.S. v. Travers, 25 M.J. 61 (C.M.A. 1987)

Other Crimes, Wrongs, or Acts

MREs 401, 403, and 404

Huddleston v. U.S., 485 U.S. 681 (1988)

U.S. v. Reynolds, 29 M.J. 105 (C.M.A. 1989)

U.S. v. Castillo, 29 M.J. 145 (C.M.A. 1989)

U.S. v. Sweeney, 48 M.J. 117 (C.A.A.F. 1998)

U.S. v. Wright, 53 M.J. 476 (C.A.A.F. 2000)

U.S. v. McDonald, 56 M.J. 426 (C.A.A.F. 2004)

U.S. v. Berry, 61 M.J. 91 (C.A.A.F. 2005)

U.S. v. Rhodes, 61 M.J. 445 (C.A.A.F. 2005)

U.S. v. Hays, 62 M.J. 158 (C.A.A.F. 2005)

U.S. v. Harrow, 65 M.J. 190 (C.A.A.F. 2007)

ARGUMENT – COURT CLOSURE

The Defense requests that the Court be closed while it is hearing evidence, considering argument, and issuing its decision on this motion. Publicly airing the facts that gave rise to this motion now will impact PFC Manning's ability to receive a fair trial later, and there is no alternative to closure that will protect against that harm.

The applicable rule provides, in certain terms, that courts-martial "shall be open to the public..." See RCM 806(b)(2). This rule observes the long-standing principle that "...public confidence in matters of military justice would quickly erode if courts-martial were arbitrarily closed to the public." U.S. v. Travers, 26 M.J. 61, 62 (C.M.A. 1987). This right of the public may be curtailed by the Court only after ensuring the four-part test in RCM 806(b)(2) is satisfied: (1) there is a substantial probability that an overriding interest will be prejudiced if the proceedings remain open; (2) closure is no broader than necessary to protect the overriding interest; (3) reasonable alternatives to closure were considered and found inadequate; and (4) the military judge makes case-specific findings on the record justifying closure.

PFC Manning has an overriding interest in a trier-of-fact that is free from bias. See RCM 912 (allowing for the examination of court members to identify appropriate grounds for challenge, including bias). The Government uses their motion to accuse PFC Manning of striking a woman as well as open contempt for the American flag and the people it represents. There is a substantial probability that, if this hearing is conducted in open court, a potential member will read the news accounts related to this motion and form an opinion about PFC Manning, regardless of the Court's ruling on the underlying issues. Those allegations alone are enough to bias potential members against PFC Manning, and they will certainly be broadcast thoroughly enough for any member of the public to hear.

The Defense does not seek a blanket closure of all of the proceedings currently scheduled for 28-30 August 2012. We only seek closure for those proceedings in which this motion will be contemplated by the Court.

There are no reasonable alternatives that will address PFC Manning's overriding interest. The Discussion for RCM 806(b)(2) contemplates alternatives like expanding voir dire, continuing the proceedings, directing the members to ignore the media, selecting members from outside the immediate area or new arrivals, changing the place of trial, or sequestering members. First, the Court should disregard any remedy that contemplates interaction with members six months prior to trial. It is impractical to suggest to anyone that they ignore the news for a period of months. Furthermore, the court membership may well change in light of any number of unforeseen circumstances, and the venire would have to be replaced with members that may have read accounts or heard rumors of this motion. Second, the media attention for this case is national, if not international. Selecting new arrivals or moving the location of the court-martial will not avoid the saturation coverage. Finally, expanding voir dire will not address the serious harm that this information could cause PFC Manning. Panel members are all part of an organization dedicated to defending this country. Evidence like this may deeply influence their views on this case in a way that voir dire will not be able to adequately address.

Finally, if the Court is inclined to agree with this request for closure, then it must make case-specific findings on the record justifying closure. Those reasons stated above necessitate closure in this action.

ARGUMENT – 404(b)

The admissibility of other crimes, wrongs, or acts against a military accused for the purpose of showing some non-character rationale is well-settled. The Government's explanation of the rule in its motion is certainly serviceable. See Prosecution Motion, pages 2-3. Another description of this body of law can be found in U.S. v. McDonald, 59 M.J. 426, 428-29 (C.A.A.F. 2004).

YouTube Video Posting and Corrective Training. The Government seeks to elicit testimony of PFC Manning's "wrong" of discussing his duties as an intelligence analyst in a video he posted to YouTube in order to show his knowledge "...that information posted on the internet is accessible to and sought out by the enemy." See Prosecution Motion, page 4. The Defense concedes that an adequate factual foundation exists for this evidence.

This evidence fails the second prong of the 404(b) inquiry because it makes no fact of consequence more or less probable. Reynolds, 29 M.J. at 109. The government's problem here is one of causation. The fact of consequence (PFC Manning's knowledge) is not something that PFC Manning carries with him throughout the arc of the other act and is, therefore, relevant to determine his knowledge at the time of the charged offenses. PFC Manning's knowledge is caused by the corrective training administered by Mr. Medina. Contrast Huddleston v. U.S., 485 U.S. 681 (1988), a case cited by the government, with the facts at bar. In Huddleston, the government sought to introduce that his guilty knowledge with respect to stolen televisions was admissible evidence against him in a case involving stolen Memorex tapes. Huddleston, 485 U.S. at 682-83. In this case, the knowledge the Government wants PFC Manning to have comes not from PFC Manning, but from an outside source (Mr. Madrid).

Assuming the second prong is satisfied, evidence of the YouTube video "wrong" fails the third prong of the 404(b) inquiry because its probative value is substantially outweighed by the danger of unfair prejudice. Reynolds, 29 M.J. at 109. We agree with the Government that the factors identified in U.S. v. Berry, 61 M.J. 91, 95 (C.A.A.F. 2005) are helpful to balance the interests necessary. In this case, the "wrong" of uploading a video to YouTube with "buzzwords" has little, if any, probative value. The true probative value lies in the actions taken

by PFC Manning after the corrective training was administered by Mr. Madrid (e.g. preparing a presentation for his fellow students about information security). Furthermore, the Government is free to put on evidence of the class given by PFC Manning without reference to the "wrong." A reasonable member is capable of understanding that an NCO, especially an NCO in a training environment, might task a junior enlisted Soldier to teach a class to his peers on a relevant subject for a variety of reasons. Finally, the time difference between the YouTube incident and the beginning of the first charged time period – more than a year – is great enough to find that the incidents are not "temporally proximate." Berry, 61 M.J. at 95, citing U.S. v. Wright, 53 M.J. 476 (C.A.A.F. 2000).

Disloyal Statements. The Government seeks to admit evidence from Ms. Showman that PFC Manning told her that "...the [American] flag meant absolutely nothing to him, and he had no allegiance to the United States or its people." This evidence is offered as proof of PFC Manning's "state of mind" or "intent." See Prosecution Motion at page 4.

Ms. Showman's testimony with respect to the disloyal statements fails to meet even the meager standard included in the first prong of the 404(b) analysis. First, there is no record of Ms. Showman reporting this incident until after (1) PFC Manning allegedly assaulted her and (2) the allegations against PFC Manning became well known. Second, Ms. Showman herself cannot say what motivated PFC Manning to make these statements or exclude the possibility that PFC Manning was making these statements just to annoy her. Ms. Showman's testimony alone, with respect to the disloyal statements, would not provide the reasonable support a trier-of-fact would need to make any determination in this matter.

Procedurally, the Defense would assert that the in-person testimony of Ms. Showman is vital for the Court to determine the first prong of the 404(b) inquiry. The Court's determination whether the evidence would support a finding by members should be done considering the same form of evidence that members will consider with Ms. Showman – in-person testimony.

Notwithstanding any conclusion made by the Court with respect to the first prong, Ms. Showman's testimony regarding the disloyal statements also fails the second prong of the 404(b) inquiry. Her uncorroborated testimony does not make a fact of consequence more or less probable. Reynolds, 29 M.J. at 109. There are a substantial number of cases that discuss the use of "intent" as a non-character theory of relevance under MRE 404(b). See U.S. v. Sweeney, 48 M.J. 117 (C.A.A.F. 1998) (allowing evidence of stalking a previous wife in a trial for stalking current wife); U.S. v. Hays, 62 M.J. 158 (C.A.A.F. 2005) (allowing evidence of child pornographic videos and explicit emails about adult-child sexual contact in a trial for soliciting rape of a minor); and U.S. v. Harrow, 65 M.J. 190 (C.A.A.F. 2007) (allowing evidence of prior instances of child abuse in a trial for the unpremeditated murder of the same child). In general, the Court has to conclude that PFC Manning's state of mind was "...sufficiently similar to make the evidence of the prior acts relevant on the intent element of the charged offenses." U.S. v. McDonald, 59 M.J. at 430.

In the present case, the Government seeks to admit evidence of a statement that was made some months before the charged offenses in an environment in which PFC Manning was compelled to be present (a counseling session). The stated theory offered by the Government is that, in the moment he made the statement to Ms. Showman, he had a similar mindset to the times in the future when he committed the acts described in the charges and specifications. Unfortunately, the Government has proffered no evidence that indicates PFC Manning was motivated by some animus toward the United States or its people while he was allegedly committing the crimes charged. So, even if the Court is inclined to agree that these statements

are indicative of PFC Manning's intent, there is nothing to connect that intent with his intent during the charged offenses.

Assuming the first two prongs are satisfied, these disloyal statements fail the third prong of the 404(b) inquiry because the probative value of the evidence is outweighed by the danger of unfair prejudice. Reynolds, 29 M.J. at 109. First, there is again little temporal proximity between the uncharged misconduct and the charged offenses. In the least, it occurred months before PFC Manning deployed to Iraq in October 2009. Therefore, it was months before the first charged offense. Second, the disloyal statement happened only once under involuntary circumstances. The Government has not produced evidence of these types of disloyal statements occurring with any additional frequency as imagined by the Wright/Berry factors. Finally, the relationship between the parties must be considered because they fundamentally changed. PFC Manning's remarks to Ms. Showman were made while one junior enlisted Soldier was counseling another. The charged offenses were not done while PFC Manning was speaking with Ms. Showman. They are alleged to have occurred while PFC Manning was sitting alone at government computers.

Assault on Ms. Showman. The Government seeks to admit evidence that PFC Manning struck her in the face with his fist. This evidence is offered as proof of "...the timeline of the Accused's removal from the SCIF and placement in the Supply Room to work with SSG Bigelow where the Accused's misconduct continued." See Prosecution Motion at page 5.

Assuming the appropriate finding of the Court with respect to the first prong, (the Defense is only willing to stipulate to SSG Bigelow's expected testimony and Enclosure 6 of the Prosecution Motion), the assault on Ms. Showman fails the second prong of the 404(b) inquiry because it does not make a fact of consequence more or less probable. Reynolds, 29 M.J. at 109. The Government's timeline is not a fact of consequence contemplated by MRE 404(b). The Government uses Castillo to assert that "...the sole test under [MRE] 404(b) is whether the evidence of the misconduct is offered for some purpose other than to demonstrate the accused's predisposition to crime..." and insist their evidentiary timeline is an appropriate purpose. U.S. v. Castillo, 29 M.J. 145, 150 (C.M.A. 1989). The Defense contends this is a drastic misinterpretation of the both 404(b) and Castillo. The rule obviously contemplates the accused himself, and what his other actions may mean, in its title "Other Crimes, Wrongs, or Acts" and the factors listed in the actual text. That language helps the trier-of-fact interpret the behavior of the accused to resolve factual issues related to the accused, not the exigencies of proving the Government's case. The 404(b) evidence in Castillo was the history of sexually assaultive behavior between the accused and a stepdaughter. Castillo, 29 M.J. at 148-49. Other, non-listed factors approved by military appellate courts have included consciousness of guilt (see U.S. v. Rhodes, 61 M.J. 445 (C.A.A.F. 2005)), but none have gone as far as the Government does in its motion.

The only permissible theory the Defense could imagine for this evidence was opportunity. Essentially, PFC Manning's alleged assault on Ms. Showman and subsequent exile from the S2 Section to the Supply Room show his opportunity to use SSG Bigelow's computer. The problem with this strawman imagined by the Defense is again one of causation. There is no evidence to suggest that the assault on Ms. Showman by PFC Manning was done with the intention of giving himself the opportunity to use SSG Bigelow's computer. Contrast the instant facts with a situation in which an accused lies to gain access to an area and then steals something from that area. In a subsequent larceny trial, the government is free to discuss the other wrong of lying because that lie provided the opportunity to commit the larceny. PFC Manning's alleged assault is different from the hypothetical above because there is no evidence

to indicate the alleged assault was done with the intent to give him an opportunity to commit the actual charged offense.

Assuming the Court finds that both the first and second prong are satisfied, the assault on Ms. Showman fails the third prong of the 404(b) inquiry because the probative value is substantially outweighed by the danger of unfair prejudice. *Reynolds*, 29 M.J. at 109. The Government has indicated that this assault is probative for its ability to establish a timeline that the trier-of-fact will be able to understand during the presentation of evidence. That is scant probative value offered by the proponent of this evidence, especially when the danger of unfair prejudice is this great. The evidence for this uncharged misconduct indicates that PFC Manning, a man, struck Ms. Showman, a woman, in the face with his closed fist. A plain reading of MRE 403 would necessitate closely examining this evidence, regardless of the rationale offered by the Government. It certainly compels excluding this evidence when the probative value offered is so low.

There are two other factors to consider. First, the Court can avoid this by directing the Government to elicit testimony from SSG Bigelow that PFC Manning was assigned to work for him in the Supply Room from April 2010 until he was placed in pretrial detention. The members will certainly be able to understand that anyone wearing a uniform, especially junior enlisted Soldiers, may change job locations or duties daily performed for any number of reasons. Second, the Government knew of this misconduct at the time of its charging decision in this case and failed to include it as a charged offense. Simply put, the Government should not find refuge in 404(b) under these circumstances.

Impeachment. The Defense requests you deny the relief sought by the Government on pages 7 and 8 of its motion because the matter raised is not yet appropriate for a ruling. The Defense has not been called upon to identify its witnesses. We have not sought a ruling from the Court about the propriety of any defense or attempted to shield any witness from cross-examination. We accept that the Government can rebut "good Soldier" opinion evidence by asking if the witness "knew" or "had heard" about specific instances of conduct. The Defense likewise accepts that the "good faith" standard for asking "did you know" or "have you heard" questions is quite low. However, a ruling by this Court months before such evidence may be admitted is far too speculative. If the Defense elicits a "good Soldier" opinion AND if the Government asks a question that challenges the basis for the opinion AND if the Defense objects, then the Court will have before it a proper issue upon which to make a ruling. Until then, the Government's current request for relief should be denied.

CONCLUSION

The Defense respectfully requests that this Court (1) close the Article 39(a) sessions of court during which evidence is adduced, argument is made, and the Court's ruling announced on this particular motion and (2) deny all of the prosecution's requests made in their corresponding 3 August 2012 motion.

Thomas F. Hurley

THOMAS F. HURLEY
MAJ, JA
Defense Counsel

Appellate Exhibit 251
Enclosure 1
have been entered into
the record as a CD/DVD
and will be maintained
with the original
Record of Trial

UNITED STATES OF AMERICA

v.

Manning, Bradley E.
PFC, U.S. Army,
HHC, U.S. Army Garrison,
Joint Base Myer-Henderson Hall
Fort Myer, Virginia 22211


Prosecution Disclosure
to the Defense

3 August 2012

The United States responds to the Court's Order, dated 29 May 2012 as follows:

1. On 3 August 2012, the United States filed an *ex parte* motion requesting the Court consider that motion *in camera* and *ex parte* under MRE 505(g)(2) and to authorize redactions of portions of the Federal Bureau of Investigation (FBI) file under MRE 505(g)(2) that are not relevant and necessary for production under RCM 703(f). The United States requested the Court authorize redactions under MRE 505(g)(2)(A). See Enclosure 1. The United States seeks to protect information relating to national security investigations.
2. On 3 August 2012, the United States filed an *ex parte* motion requesting the Court consider that motion *in camera* and *ex parte* under MRE 505(g)(2) and to authorize redactions of portions of the Office of the National Counterintelligence Executive (ONCIX) damage assessment under MRE 505(g)(2) that are neither favorable to the accused and material to guilt or punishment, nor relevant and necessary for production under RCM 703(f). The United States requested the Court authorize redactions under MRE 505(g)(2)(A). See Enclosure 2. The United States seeks to protect information relating to intelligence activities, intelligence sources or methods, and foreign relations or foreign activities of the United States, all within the national security interests of the United States.
3. On 3 August 2012, the United States filed a motion requesting the Court consider the enclosures *in camera* and *ex parte* under MRE 505(g)(2) and to authorize redactions of portions of Defense Intelligence Agency (DIA) records under MRE 505(g)(2) that neither involve investigation, damage assessment, or mitigation measures, nor are otherwise subject to discovery or production under Brady, RCM 701(a)(2), RCM 701(a)(6), or RCM 703(f). The United States requested the Court authorize redactions under MRE 505(g)(2)(A). See Enclosure 3. The United States seeks to protect information relating to intelligence activities and intelligence sources or methods, all within the national security interests of the United States.
4. On 3 August 2012, the United States filed an *ex parte* motion requesting the Court consider that motion *in camera* and *ex parte* under MRE 505(g)(2) and to authorize a substitution of the portion of the Central Intelligence Agency (CIA) report referenced in Appellate Exhibit CCVIII that is favorable to the accused and material to guilt or punishment or relevant and necessary for production under RCM 703(f). The United States requested the Court authorize a summary under MRE 505(g)(2)(B). See Enclosure 4. The United States seeks to protect information

relating to intelligence activities, intelligence sources or methods, and foreign relations or foreign activities of the United States, all within the national security interests of the United States.


JODEAN MORROW
CPT, JA
Assistant Trial Counsel

4 Encls

1. Government *ex parte* Motion (FBI) [unclassified redacted version]
2. Government *ex parte* Motion (ONCIX) [unclassified redacted version]
3. Government Motion (DIA)
4. Government *ex parte* Motion (CIA) [unclassified redacted version]

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**Government *in camera* Motion for
Authorization of Redactions
for the FBI File
under MRE 505(g)(2)**

3 August 2012

RELIEF SOUGHT

(U) COMES NOW the United States of America, by and through undersigned counsel, and respectfully requests this Court: (1) consider this motion and the enclosures *in camera* and *ex parte* under Military Rule of Evidence (MRE) 505(g)(2); and (2) authorize redactions of portions of the Federal Bureau of Investigation (FBI) file (hereinafter "file") that are neither favorable to the accused and material to guilt or punishment, nor relevant and necessary for production under Rule for Courts-Martial (RCM) 703(f).

BURDEN OF PERSUASION AND BURDEN OF PROOF

(U) As the moving party, the United States has the burden of persuasion on any factual issue the resolution of which is necessary to decide the motion. RCM 905(c)(2). The burden of proof is by a preponderance of the evidence. RCM 905(c)(1).

FACTS

(U) On 16 March 2012, the prosecution began producing documents from the FBI investigative file relevant to the accused. On 10 May 2012, the defense moved the Court to order production of the entire FBI file under the "relevant and necessary" standard under RCM 703(f).

(U) On 22 June 2012, the Court found the defense had shown that the FBI file (minus grand jury testimony), to the extent relevant to an investigation of the accused, was material to the preparation of the defense to the extent that it is relevant and necessary for production under RCM 703(f). The Court ordered the prosecution to notify the Court whether the FBI, as a custodian of classified information, would seek limited disclosure of the FBI file IAW MRE 505(g)(2) or claim a privilege IAW MRE 505(c).

(U) On 25 July 2012, the prosecution notified the Court that the FBI would seek limited disclosure under MRE 505(g)(2) and would not claim a privilege IAW MRE 505(c).

WITNESSES/EVIDENCE

(U) The United States does not request any witnesses be produced for this motion. The prosecution requests that the Court consider the enclosures listed at the end of this motion.

[REDACTED]

LEGAL AUTHORITY AND ARGUMENT

(U) If classified information is at issue in a court-martial, then the United States may agree to disclose the classified information to the defense under a protective order. See MRE 505(g)(1). Additionally, the United States may motion the Court to "authorize (A) the deletion of specific items of classified information from documents to be made available to the [accused], (B) the substitution of a portion or summary of the information for classified documents, or (C) the substitution of a statement admitting relevant facts that the classified information would tend to prove." MRE 505(g)(2). The military judge "shall authorize" these alternative forms, unless she determines "the disclosure of the classified information itself is necessary to enable the accused to prepare for trial." Id. If a motion is filed under MRE 505(g)(2), then upon request of the United States, the motion "shall" be considered by the military judge *in camera* and "shall not be disclosed to the accused." Id.

(U) The procedures outlined in MRE 505(g)(1) and (2) apply when the United States voluntarily discloses information and does not withhold classified information under MRE 505(c). If the United States intends to withhold information under MRE 505(c), then the United States must move for an *in camera* proceeding under MRE 505(i)(2), obtain an affidavit demonstrating that disclosure of the information reasonably could be expected to cause damage to the national security under MRE 505(i)(3), and follow the notice procedures outlined under MRE 505(i)(4). See MRE 505(i). For the purposes of this filing, the FBI, through the prosecution, is voluntarily disclosing portions of the FBI file pursuant to the Court's Order and is not withholding any classified information under MRE 505(c) and MRE 505(i).

[REDACTED]

(U) The information redacted in the FBI file is not material to the preparation of the defense or relevant and necessary for production under RCM 703(f) and is therefore not discoverable. Additionally, the information is not "necessary to enable the accused to prepare for trial" under MRE 505(g)(2). Therefore, the defense is not entitled to discovery of the redacted information.

(U) Should the Court find the redacted information is discoverable under RCM 703(f), or is "necessary to enable the accused to prepare for trial" under MRE 505(g)(2), then the United States requests the opportunity to either: (1) address the Court's findings with the relevant government agency to determine whether a different alternative under MRE 505(g)(2) is appropriate and file that alternative with the Court, or (2) allow for the relevant government agency to claim a privilege under MRE 505(c) and the United States to move for an *in camera* proceeding under MRE 505(i).

[REDACTED]

(U) The prosecution will not use any redacted portions of the FBI file provided to the Court during any portion of the trial.

CONCLUSION

(U) The United States respectfully requests this Court: (1) consider this motion *in camera* and *ex parte* under MRE 505(g)(2), and (2) authorize redactions of portions of the FBI file that are neither favorable to the accused and material to guilt or punishment, nor relevant and necessary for production under RCM 703(1).

JODEAN MORROW
CPT, JA
Assistant Trial Counsel

3 Encls

1. FBI File Produced to Defense w/ Redactions in Grey [classified "[REDACTED]"] [CD provided separately]
2. FBI Declaration [classified "[REDACTED]"]
3. Government's Due Diligence Statement, 25 July 2012 [classified "[REDACTED]"] [not attached]

[REDACTED]

UNITED STATES OF AMERICA)

v.)

Manung, Bradley E.)
PFC, U.S. Army,)
HHC, U.S. Army Garrison,)
Joint Base Myer-Henderson Hall)
Fort Myer, Virginia 22211)

Government *in camera* Motion for
Authorization of Redactions of
the ONCIX Damage Assessment
under MRE 505(g)(2)

3 August 2012

RELIEF SOUGHT

(U) COMES NOW the United States of America, by and through undersigned counsel, and respectfully requests this Court : (1) consider this motion *in camera* and *ex parte* under MRE 505(g)(2); and (2) authorize redactions of portions of the Office of the National Counterintelligence Executive (ONCIX) damage assessment (hereinafter "report") under Military Rule of Evidence (MRE) 505(g)(2) that are neither favorable to the accused and material to guilt or punishment, nor relevant and necessary for production under Rule for Courts-Martial (RCM) 703(f).

BURDEN OF PERSUASION AND BURDEN OF PROOF

(U) As the moving party, the United States has the burden of persuasion on any factual issue the resolution of which is necessary to decide the motion. RCM 905(c)(2). The burden of proof is by a preponderance of the evidence. RCM 905(c)(1).

FACTS

(U) On 22 June 2012, the Court ordered (hereinafter "Court's Order") the prosecution to provide the Court with the ONCIX damage assessment for *in camera* review by 3 August 2012. To date, the report is a draft document that is incomplete and continues to change as information is compiled and analyzed. See Enclosure 1. The report is classified "[REDACTED]" and contains [REDACTED] to include [REDACTED].

Based on the classification and the use of [REDACTED] in the report, ONCIX will accommodate the Court in its review of the report, to include making the Headquarters, Office of the Director of National Intelligence facility available.

(U) [REDACTED] is the point of contact within the Office of the General Counsel and will coordinate the report being available anytime the Court would like to review the material. [REDACTED] may be contacted at [REDACTED] or [REDACTED].

(U) The ONCIX, through the prosecution, seeks limited disclosure of the report under MRE 505(g)(2). The proposed redacted report is classified at the same level as the unredacted report. The proposed redactions are highlighted in grey. See Enclosure 1.

(U) The ONCIX will make the redacted report available to the defense counsel and their security experts to inspect at ODNI until the end of the court-martial. The defense counsel are only authorized access to inspect the redacted report with their security experts present. The defense counsel and their experts are authorized to take notes, and those notes will be classified at the same level as the redacted report. All notes must be stored pursuant to the Court's Protective Order, dated [REDACTED]

Encl 2 of

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[REDACTED]

16 March 2012. The defense counsel and their experts are not authorized to share the information contained within the report or their notes with the accused.

[REDACTED] The ONCIX acknowledges that the report must be made part of the appellate record. Accordingly, and because the document contains [REDACTED], the ONCIX requests the document be permanently stored at ODN.

WITNESSES/EVIDENCE

(U) The United States does not request any witnesses be produced for this motion. The prosecution requests that the Court consider the enclosures listed at the end of this motion.

LEGAL AUTHORITY AND ARGUMENT

(U) If classified information is at issue in a court-martial, then the United States may agree to disclose the classified information to the defense under a protective order. See MRE 505(g)(1). Additionally, the United States may motion the Court to "authorize (A) the deletion of specific items of classified information from documents to be made available to the [accused], (B) the substitution of a portion or summary of the information for classified documents, or (C) the substitution of a statement admitting relevant facts that the classified information would tend to prove." MRE 505(g)(2). The military judge "shall authorize" these alternative forms, unless she determines "the disclosure of the classified information itself is necessary to enable the accused to prepare for trial." Id. If a motion is filed under MRE 505(g)(2), then upon request of the United States, the motion "shall" be considered by the military judge *in camera* and "shall not be disclosed to the accused." Id.

(U) The procedures outlined in MRE 505(g)(1) and (2) apply when the United States voluntarily discloses information and does not withhold classified information under MRE 505(c). If the United States intends to withhold information under MRE 505(c), then the United States must move for an *in camera* proceeding under MRE 505(i)(2), obtain an affidavit demonstrating that disclosure of the information reasonably could be expected to cause damage to the national security under MRE 505(i)(3), and follow the notice procedures outlined under MRE 505(i)(4). See MRE 505(i). For the purposes of this filing, the ONCIX, through the prosecution, is voluntarily disclosing portions of the report and is not withholding any classified information under MRE 505(c) and MRE 505(i).

[REDACTED] On 3 August 2012, the prosecution reviewed the most-current report for information favorable to the accused and material to guilt or punishment. See RCM 701(a)(6); see also Brady v. Maryland, 373 U.S. 83 (1963). The prosecution reviewed the report and determined that it contained information that was favorable to the accused and material to guilt or punishment. The appropriate Original Classification Authority determined that ONCIX would disclose the report under MRE 505(g)(1).

[REDACTED] The ONCIX contacted [REDACTED] to determine if it would authorize the prosecution to voluntarily disclose the original classified material to the defense under MRE 505(g)(1) or (g)(2). [REDACTED] objected to a portion of their information being disclosed to the defense. See Enclosure 3. [REDACTED] requested that certain information be redacted and a redacted version of the ONCIX report be produced under MRE 505(g)(2).

[REDACTED] The prosecution reviewed the information that [REDACTED] objected to disclose to the defense. This redacted information contained within the report does not meet the Brady/Giglio.

[REDACTED]

RCM 701(a)(6), or RCM 703(f) standards and therefore is not discoverable or subject to production. Additionally, that information is not "necessary to enable the accused to prepare for trial" under MRE 505(g)(2). Therefore, the defense is not entitled to discovery of the redacted information.

(U) Should the Court find the redacted information is discoverable under RCM 701(a)(6) or Brady/Giglio, subject to production under RCM 703(f), or "necessary to enable the accused to prepare for trial" under MRE 505(g)(2), then the United States requests the opportunity to either (1) address the Court's findings with the relevant government agency to determine whether a different alternative under MRE 505(g)(2) is appropriate and file that alternative with the Court, or (2) allow for the relevant government agency to claim a privilege under MRE 505(c) and the United States to move for an *in camera* proceeding under MRE 505(i).

(U) The prosecution will not use any redacted portions of the report provided to the Court during any portion of the trial.

CONCLUSION

(U) The United States respectfully requests this Court (1) consider this motion *in camera* and *ex parte* under MRE 505(g)(2), and (2) authorize redactions of portions of the ONCIX report that are neither favorable to the accused and material to guilt or punishment, nor relevant and necessary for production under RCM 703(f).

J. HUNTER WHYTE
CPT, JA
Assistant Trial Counsel

2 Encls

- 1 ONCIX Draft Damage Assessment (classified "[REDACTED]") (not attached)
- 2 [REDACTED] Memorandum, dated 2 August 2012 (classified "[REDACTED]")

UNITED STATES OF AMERICA)

v.)

Manning, Bradley E.)
PFC, U.S. Army,)
HHC, U.S. Army Garrison,)
Joint Base Myer-Henderson Hall)
Fort Myer, Virginia 22211)

**Government Motion for
Authorization of Redactions
of DIA Records
under MRE 505(g)(2)**

3 August 2012

RELIEF SOUGHT

COMES NOW the United States of America, by and through undersigned counsel, and respectfully requests this Court: (1) consider the enclosures *in camera* and *ex parte* under Military Rule of Evidence (MRE) 505(g)(2); and (2) authorize redactions of portions of the Defense Intelligence Agency (DIA) records (hereinafter "records") under MRE 505(g)(2) that neither involve investigation, damage assessment, or mitigation measures, nor are otherwise subject to discovery or production under Brady, Rule for Courts-Martial (RCM) 701(a)(2), RCM 701(a)(6), or RCM 703(f).

BURDEN OF PERSUASION AND BURDEN OF PROOF

As the moving party, the United States has the burden of persuasion on any factual issue the resolution of which is necessary to decide the motion. RCM 905(c)(2). The burden of proof is by a preponderance of the evidence. RCM 905(c)(1).

FACTS

On 22 June 2012, the Court ordered (hereinafter "Court's Order") the prosecution to seek out and identify files regarding the accused that involve investigation, damage assessment, or mitigation measures, and to notify the Court with a status of whether it anticipates any government entity that is the custodian of classified evidence that is the subject of the Defense Motion to Compel will seek limited disclosure IAW MRE 505(g)(2) or claim a privilege IAW MRE 505(c) for the classified information under that agency's control.

On 25 July 2012, the prosecution notified the Court that the DIA would seek limited disclosure under MRE 505(g)(2) and would not claim a privilege IAW MRE 505(c).

On 1 August 2012, the prosecution disclosed to the defense DIA records that involve investigation, damage assessment, or mitigation measures, or are otherwise subject to discovery or production under Brady, RCM 701(a)(2), RCM 701(a)(6), or RCM 703(f), and that DIA authorized the prosecution to voluntarily disclose to the defense under MRE 505(g)(1). A total of 4,878 DIA records, consisting of 25,772 pages, were disclosed to the defense.

WITNESSES/EVIDENCE

The United States does not request any witnesses be produced for this motion. The prosecution requests that the Court consider the enclosures listed at the end of this motion.

LEGAL AUTHORITY AND ARGUMENT

If classified information is at issue in a court-martial, then the United States may agree to disclose the classified information to the defense under a protective order. See MRE 505(g)(1). Additionally, the United States may motion the Court to "authorize (A) the deletion of specific items of classified information from documents to be made available to the [accused], (B) the substitution of a portion or summary of the information for classified documents, or (C) the substitution of a statement admitting relevant facts that the classified information would tend to prove." MRE 505(g)(2). The military judge "shall authorize" these alternative forms, unless she determines "the disclosure of the classified information itself is necessary to enable the accused to prepare for trial." Id. If a motion is filed under MRE 505(g)(2), then upon request of the United States, the motion "shall" be considered by the military judge *in camera* and "shall not be disclosed to the accused." Id.

The procedures outlined in MRE 505(g)(1) and (2) apply when the United States voluntarily discloses information and does not withhold classified information under MRE 505(c). If the United States intends to withhold information under MRE 505(c), then the United States must move for an *in camera* proceeding under MRE 505(i)(2), obtain an affidavit demonstrating that disclosure of the information reasonably could be expected to cause damage to the national security under MRE 505(i)(3), and follow the notice procedures outlined under MRE 505(i)(4). See MRE 505(i). For the purposes of this filing, the DIA, through the prosecution, is voluntarily disclosing portions of its records pursuant to the Court's Order and is not withholding any classified information under MRE 505(c) and MRE 505(i).

Pursuant to the Court's Order, the prosecution sought out DIA records regarding the accused that involve investigation, damage assessment, or mitigation measures. The prosecution also sought out DIA records subject to discovery or production under Brady, RCM 701(a)(2), RCM 701(a)(6), or RCM 703(f). See Brady v. Maryland, 373 U.S. 83 (1963). The prosecution identified information that involved investigation, damage assessment, or mitigation measures, or is otherwise subject to discovery or production under Brady, RCM 701(a)(2), RCM 701(a)(6), or RCM 703(f). The DIA reviewed that information to determine if it would authorize the prosecution to voluntarily disclose the original classified material to the defense under MRE 505(g)(1) or (g)(2). The DIA determined that the agency would disclose a majority of information under MRE 505(g)(1) and a limited amount of information in a redacted form under MRE 505(g)(2). See Enclosure 3.

The prosecution reviewed the information that the DIA objected to disclose to the defense. This redacted information neither involves investigation, damage assessment, or mitigation measures, nor is otherwise subject to discovery or production under Brady, RCM 701(a)(2), RCM 701(a)(6), or RCM 703(f). Additionally, the information is not "necessary to enable the accused to prepare for trial" under MRE 505(g)(2). Therefore, the defense is not entitled to discovery of the redacted information.

Should the Court find the redacted information is discoverable, or is "necessary to enable the accused to prepare for trial" under MRE 505(g)(2), then the United States requests the opportunity to either: (1) address the Court's findings with the relevant government agency to determine whether a different alternative under MRE 505(g)(2) is appropriate and file that alternative with the Court, or (2) allow for the relevant government agency to claim a privilege under MRE 505(c) and the United States to move for an *in camera* proceeding under MRE 505(i).

The prosecution will not use any redacted portions of the DIA records provided to the Court during any portion of the trial.

CONCLUSION

The United States respectfully requests this Court: (1) consider the enclosures *in camera* and *ex parte* under MRE 505(g)(2), and (2) authorize redactions of portions of the DIA records that neither involve investigation, damage assessment, or mitigation measures, nor are otherwise subject to discovery or production under Brady, RCM 701(a)(2), RCM 701(a)(6), or RCM 703(f).

J. HUNTER WHYTE
CPT, JA
Assistant Trial Counsel

3 Encls

1. Original DIA Records [classified w/ various control measures] [CD provided separately]
2. Redacted DIA Records [classified w/ various control measures] [CD provided separately]
3. DIA Memorandum, dated 3 August 2012

[REDACTED]

UNITED STATES OF AMERICA)

v.)

Manning, Bradley E.)
PFC, U.S. Army,)
HHC, U.S. Army Garrison,)
Joint Base Myer-Henderson Hall)
Fort Myer, Virginia 22211)

Government *in camera* Motion for
Authorization of a Substitution of
the CIA Report
under MRE 505(g)(2)

3 August 2012

RELIEF SOUGHT

(U) COMES NOW the United States of America, by and through undersigned counsel, and respectfully requests this Court: (1) consider this motion *in camera* and *ex parte* under MRE 505(g)(2); and (2) authorize a substitution of the portion of the Central Intelligence Agency (CIA) report (hereinafter "report") under Military Rule of Evidence (MRE) 505(g)(2) that is favorable to the accused and material to guilt or punishment, or relevant and necessary for production under Rule for Courts-Martial (RCM) 703(f).

BURDEN OF PERSUASION AND BURDEN OF PROOF

(U) As the moving party, the United States has the burden of persuasion on any factual issue the resolution of which is necessary to decide the motion. RCM 905(c)(2). The burden of proof is by a preponderance of the evidence. RCM 905(c)(1).

FACTS

(U) On 12 July 2012, the prosecution notified the Court that the CIA drafted another report analyzing the impact of the WikiLeaks disclosures on a discrete matter and that the report was a follow-on report to the original WikiLeaks Task Force Report. The prosecution notified the Court that it intended to submit any applicable filing to the Court no later than 3 August 2012.

[REDACTED] The report is classified "[REDACTED]". The proposed summarized report is classified "[REDACTED]".

[REDACTED] Based on the classification and the use of [REDACTED] in the original report, the CIA will accommodate the Court in its review of the enclosures, to include making the CIA Headquarters available or using [REDACTED] [REDACTED] is the point of contact within the Litigation Division, Office of the General Counsel, and will coordinate the original report and the proposed summarized assessment being available anytime the Court would like to review the material at the mutually agreeable location.

(U) [REDACTED] may be contacted at [REDACTED] x [REDACTED].

[REDACTED] The CIA acknowledges that the original report and the proposed summarized report must be made part of the appellate record. Accordingly, and because the documents contain [REDACTED], the CIA requests the documents be permanently stored at CIA Headquarters.

[REDACTED]

(U) The CIA gives temporary custody of the summarized report to the prosecution. The prosecution is authorized to make the report available to the defense counsel and their security experts to inspect until the end of the court-martial. The defense counsel are only authorized access to inspect the summarized report with their security experts present. The defense counsel and their experts are authorized to take notes, and those notes will be classified at the same level as the report. All notes must be stored pursuant to the Court's Protective Order, dated 16 March 2012. The defense counsel and their experts are not authorized to share the information contained within the report or their notes with the accused. At the conclusion of the court-martial, the prosecution is required to return all the copies of the summarized report to the CIA.

WITNESSES/EVIDENCE

(U) The United States does not request any witnesses be produced for this motion. The prosecution requests that the Court consider the enclosures listed at the end of this motion.

LEGAL AUTHORITY AND ARGUMENT

(U) If classified information is at issue in a court-martial, then the United States may agree to disclose the classified information to the defense under a protective order. See MRE 505(g)(1). Additionally, the United States may motion the Court to "authorize (A) the deletion of specific items of classified information from documents to be made available to the [accused], (B) the substitution of a portion or summary of the information for classified documents, or (C) the substitution of a statement admitting relevant facts that the classified information would tend to prove." MRE 505(g)(2). The military judge "shall authorize" these alternative forms, unless she determines "the disclosure of the classified information itself is necessary to enable the accused to prepare for trial." Id. If a motion is filed under MRE 505(g)(2), then upon request of the United States, the motion "shall" be considered by the military judge *in camera* and "shall not be disclosed to the accused." Id.

(U) The procedures outlined in MRE 505(g)(1) and (2) apply when the United States voluntarily discloses information and does not withhold classified information under MRE 505(c). If the United States intends to withhold information under MRE 505(c), then the United States must move for an *in camera* proceeding under MRE 505(i)(2), obtain an affidavit demonstrating that disclosure of the information reasonably could be expected to cause damage to the national security under MRE 505(i)(3), and follow the notice procedures outlined under MRE 505(i)(4). See MRE 505(i). For the purposes of this filing, the CIA, through the prosecution is voluntarily disclosing a summary of their report, pursuant to the Court's Order and is not withholding any classified information under MRE 505(c) and MRE 505(i).

(U) On 11 July 2012, the prosecution learned that the CIA drafted a follow-on report to the WikiLeaks Task Force Report analyzing the impact of the WikiLeaks disclosures on a discrete matter. On 13 July 2012, the prosecution traveled to CIA headquarters and reviewed the report for information favorable to the accused and material to guilt or punishment. See RCM 701(a)(6); see also Brady v. Maryland, 373 U.S. 83 (1963). The prosecution reviewed the report and determined that it contained information that was favorable to the accused and material to guilt or punishment. The particular sections are highlighted in yellow. See Enclosure 1. The prosecution identified discoverable information and the CIA reviewed the information to determine if it would authorize the prosecution to voluntarily disclose the original classified material to the defense under MRE 505(g)(1) or (g)(2). The CIA determined that it would disclose the information in a summarized

[REDACTED]

form under MRE 505(g)(2). The prosecution reviewed the summary and determined that it accurately summarized the original material, including providing adequate context.

(U) The information contained within the original report, which is not included in the summary, does not meet the Brady/Giglio, RCM 701(a)(6), or RCM 703(f) standards and therefore is not discoverable or subject to production. Additionally, that information is not "necessary to enable the accused to prepare for trial" under MRE 505(g)(2). Therefore, the defense is not entitled to discovery of the redacted information.

(U) Should the Court find the deleted, substituted, or summarized information is discoverable under RCM 701(a)(6) or Brady/Giglio, subject to production under RCM 703(f), or "necessary to enable the accused to prepare for trial" under MRE 505(g)(2), then the United States requests the opportunity to either (1) address the Court's findings with the relevant government agency to determine whether a different alternative under MRE 505(g)(2) is appropriate and file that alternative with the Court, or (2) allow for the relevant government agency to claim a privilege under MRE 505(c) and the United States to move for an *in camera* proceeding under MRE 505(i).

[REDACTED] If the prosecution does offer aggravating evidence during the presentencing portion of the trial, then it will disclose the evidence pursuant to RCM 701(a)(5), subject to any required protections under MRE 505.

CONCLUSION

(U) The United States respectfully requests this Court: (1) consider this motion *in camera* and *ex parte* under MRE 505(g)(2), and (2) authorize a substitution of the portion of the CIA report that is favorable to the accused and material to guilt or punishment, or relevant and necessary for production under RCM 703(f).

JODEAN MORROW
CPT, JA
Assistant Trial Counsel

2 Enclosures

- 1 Original CIA Report (classified "[REDACTED]") [not attached]
- 2 Summarized CIA Report (classified "[REDACTED]") [not attached]

UNITED STATES

Fort Myer, VA 22211

DATED: 21 August 2012

APPELLATE EXHIBIT 253
PAGE REFERENCED: _____
PAGE OF PAGES

"Defense has shown that the FBI file (minus grand jury testimony) to the extent relevant to an investigation of PFC Manning, is material to the preparation of the Defense to the extent that it is relevant and necessary for production under RCM 703(f)." Appellate Exhibit CXLVII, p. 6.

ARGUMENT

5. The Government's non-*ex parte* filing requests the Court to authorize redactions and substitutions under MRE 505(g)(2). Specifically, the Government requests the following:

- a) FBI file. The Government asserts that the redacted portions "are not relevant and necessary for production under RCM 703(f)." *See* Prosecution Disclosure to the Defense, dated 3 August 2012.
- b) ONCIX damage assessment. The government maintains that the redacted information is "neither favorable to the accused and material to guilt or punishment, nor relevant and necessary for production under RCM 703(f)." *Id.*
- c) DIA Records. The Government requests approval of redactions from DIA records that it maintains "neither involve investigation, damage assessment, or mitigation measures nor are otherwise subject to discovery or production under Brady, RCM 701(a)(2), RCM 701(a)(6), or RCM 703(f)." *Id.*
- d) CIA Report. The Government requests authorization of a substitution for a portion of the CIA report that is "favorable to the accused and material to guilt or punishment or relevant and necessary for production under RCM 703(f)." *Id.*

6. As part of its request, the Government provided redacted versions of its *in camera* motions for authorization of redactions or substitutions. *Id.* The redacted versions provided the following detail:

- a) FBI file. The Government has indicated that it will not use the redacted portions of the FBI file during any portion of the trial. *Id.*
- b) ONCIX damage assessment. The Government informed the Court that the ONCIX damage assessment is still a draft document. *Id.* Within the redacted *in camera* motion, the Government informs the Court that it reviewed the "most-current" ONCIX damage assessment on 3 August 2012. The Government determined that the report "contained information that was favorable to the accused and material to guilt or punishment." *Id.* The Government, however, does not provide an estimate of when ONCIX envisions completing the damage assessment. ONCIX had previously indicated that it believed it might have a completed copy of its damage assessment by 3 August 2012. *See* Enclosure 2 to Appellate Exhibit CXIX. Finally, the Government indicates that it will not use redacted portions of the ONCIX damage assessment during any portion of the trial. *See* Prosecution Disclosure to the Defense, dated 3 August 2012.
- c) DIA Records. The Government has indicated that it will not use the redacted portions of the FBI file during any portion of the trial. *Id.*
- d) CIA Report. The Government states that it became aware of an additional CIA damage assessment on 11 July 2012. *Id.* The Government reviewed the report on 13 July 2012

and determined that it “contained information that was favorable to the accused and material to guilt or punishment.” *Id.*

7. The Government requests this Court to approve of its determination that the Defense is not entitled to discovery of the redacted or substituted information. In considering whether the proposed substitutions or redactions are sufficient, the Court must determine if the disclosure of the classified information itself is necessary to enable the accused to prepare for trial. MRE 505(g)(2). In making this determination, the Defense requests that this Court consider the analysis proposed by the Defense in Appellate Exhibit CLXXXII and the following factors adopted by the Court in Appellate Exhibit CXLVI:

- a) What is the extent of the redactions/substitutions?
- b) Has the Government narrowly tailored the substitutions to protect a Governmental interest that has been clearly and specifically articulated?
- c) Does the substitution provide the Defense with the ability to follow-up on leads that the original document would have provided?
- d) Do the substitutions accurately capture the information within the original document?
- e) Is the classified evidence necessary to rebut an element of the 22 charged offenses, bearing in mind the Government’s very broad reading of many of these offenses?
- f) Does the summary strip away the Defense’s ability to accurately portray the nature of the charged leaks?
- g) Do the substitutions prevent the Defense from fully examining witnesses?
- h) Do the substitutions prevent the Defense from exploring all viable avenues for impeachment?
- i) Does the Government intend to use any of the information from the damage assessments? If so, is this information limited to the summarized document provided by the Government? If the information intended to be used by the Government is not limited to the summarized document, does the Defense in fairness need to receive the classified portions of the documents to put the Government’s evidence in proper context?
- j) Does the original classified evidence present a more compelling sentencing case than the proposed substitutions by the Government?
- k) Do the proposed substitutions prevent the Defense from learning names of potential witnesses?
- l) Do the substitutions make sense, such that the Defense will be able to understand the context?
- m) Is the original classified evidence necessary to help the Defense in formulating defense strategy and making important litigation decisions in the case?
- n) Is it unfair that the Government had access to the unclassified version of the damage assessment and the Defense did not? Does that provide a tactical advantage to the Government?

CONCLUSION

8. The Defense requests that this Court deny any proposed redactions or substitutions from the FBI file, the ONCIX Damage Assessment, the identified DIA records, and the identified CIA

reports where, considering the mindset of Defense counsel (including the questions referenced herein), the Court concludes that the classified information itself is necessary to enable the accused to prepare for trial. Finally, the Defense requests that the Court Order the Government to request ONCIX to provide updated versions of its damage assessment as they become available for the Court's review until a final damage assessment is completed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'D. E. Coombs', with a stylized flourish at the end.

DAVID E. COOMBS
Civilian Defense Counsel

UNITED STATES OF AMERICA

v.

Manning, Bradley E.
PFC, U.S. Army,
HHC, U.S. Army Garrison,
Joint Base Myer-Henderson Hall
Fort Myer, Virginia 22211

ORDER: GOVERNMENT
MRE 505(g)(2) REDACTIONS

21 August 2012

On 22 June 2012, this Court ruled granted the Defense Motion to Compel Discovery 2 for the FBI files (minus grand jury testimony) related to the accused to the extent relevant to an investigation of PFC Manning. On 3 August 2012, the Government filed an *ex parte* classified motion for this Court to conduct an *in camera* review of proposed redactions to the FBI file pertaining to the accused and to authorize limited disclosure IAW MRE 505(g)(2). The Court has reviewed the FBI file and the proposed redactions and has determined this Order is necessary for the Court to conduct the MRE 505(g) review of the FBI file.

ORDER: NLT 14 September 2012, the Government will:

1. Identify numerically each proposed redaction by Bates number and provide the Court with justification for each proposed redaction. The same redaction on multiple pages may be addressed together.
2. Identify whether each proposed redaction has been made available to the Defense in discovery from another source and identify the source.

SO ORDERED: This 21st Day of August 2012.



DENISE R. LIND
COL, JA
Chief Judge, 1st Judicial Circuit

APPELLATE EXHIBIT 254
PAGE REFERENCED: _____
PAGE ____ OF ____ PAGES

IN THE UNITED STATES ARMY
FIRST JUDICIAL CIRCUIT

UNITED STATES)

V)

MANNING, Bradley E., PFC)
U.S. Army, [REDACTED])
Headquarters and Headquarters Company,)
U.S. Army Garrison, Joint Base Myer-)
Henderson Hall, Fort Myer, VA 22211)

RULING: GOVERNMENT
MOTION FOR MRE 505(g)(2)
REDACTIONS - ONCIX
DAMAGE ASSESSMENT

DATED: 23 August 2012

On 3 August 2012, the Government filed a classified motion moving the Court to conduct an *ex parte* review of the damage assessment prepared by the Office of National Counterintelligence Executive (ONCIX) and to authorize redactions of classified information from the damage assessment IAW MRE 505(g)(2). The Court conducted an *in camera* review of both the damage assessment and the proposed redactions. In coming to this ruling, the Court has considered the factors requested by the Defense in its 21 August 2012 submission.

- a) What is the extent of the redactions/substitutions?
- b) Has the Government narrowly tailored the substitutions to protect a Governmental interest that has been clearly and specifically articulated?
- c) Does the substitution provide the Defense with the ability to follow-up on leads that the original document would have provided?
- d) Do the substitutions accurately capture the information within the original document?
- e) Is the classified evidence necessary to rebut an element of the 22 charged offenses, bearing in mind the Government's very broad reading of many of these offenses?
- f) Does the summary strip away the Defense's ability to accurately portray the nature of the charged leaks?
- g) Do the substitutions prevent the Defense from fully examining witnesses?
- h) Do the substitutions prevent the Defense from exploring all viable avenues for impeachment?
- i) Does the Government intend to use any of the information from the damage assessments? If so, is this information limited to the summarized document provided by the Government? If the information intended to be used by the Government is not limited to the summarized document, does the Defense in fairness need to receive the classified portions of the documents to put the Government's evidence in proper context?
- j) Does the original classified evidence present a more compelling sentencing case than the proposed substitutions by the Government?
- k) Do the proposed substitutions prevent the Defense from learning names of potential witnesses?
- l) Do the substitutions make sense, such that the Defense will be able to understand the context?
- m) Is the original classified evidence necessary to help the Defense in formulating defense strategy and making important litigation decisions in the case?
- n) Is it unfair that the Government had access to the unclassified version of the damage assessment and the Defense did not? Does that provide a tactical advantage to the Government?

The ONCIX damage assessment remains in draft, however, no substantive changes are anticipated. The Government will keep apprised of any changes to the damage assessment and notify both the Court and the Defense of any substantive change to it.

The Government has advised the Court that nothing redacted will be used by the Government during any portion of the trial.

The ONCIX Damage Assessment, as redacted, meets the Government's discovery obligations under *Brady* and RCM 701(a)(6) to disclose evidence tending to reasonably negate the guilt of the accused to an offense charged, reduce the degree of guilt to an offense charged, or reduce the punishment. The ONCIX Damage Assessment, as redacted, also provides the Defense with evidence that is material to the preparation of the defense and relevant and necessary for production IAW MRE 703(f).

The redacted ONCIX Damage Assessment is disclosed to the Defense almost in its entirety. The redacted information not disclosed to the Defense is not favorable, material to the preparation of the defense, or relevant and necessary for production under RCM 703(f). The Government is ordered that no portion of the ONCIX Damage Assessment not disclosed to the Defense will be used by the Government or any Government witness during any portion of the trial. This includes rebuttal and rule of completeness if Defense introduces or references anything in the substitution.

The substitution is sufficient for the Defense to adequately prepare for trial and represents an appropriate balance between the right of the Defense to discovery and the protection of specifically identified national security information.

RULING: The Classified motions by the Government to voluntarily provide limited disclosure under MRE 505(g)(2) for the ONCIX Damage Assessment is **GRANTED**.

ORDERED this 23rd day of August 2012.



DENISE R. LIND
COL., JA
Chief Judge, 1st Judicial Circuit

UNITED STATES

v.

**DEFENSE REQUESTED
WITNESSES: SPEEDY TRIAL
MOTION**

DATED: 24 August 2012

a) COL Carl Coffman, United States Army Forces-Afghanistan. carl.coffman@us.army.mil. As the former Special Court-Martial Convening Authority (SPCMCA), COL Coffman was the approval authority for numerous Government requests for excludable delay under Rule for Courts-Martial (RCM) 707(c). COL Coffman will testify concerning his approvals of the Government's requests for excludable delay. For any particular period for which excludable delay was found, COL Coffman will testify regarding the grounds which the Government provided for its request. COL Coffman will also testify regarding how the Government made its request for excludable delay, and his decision process in electing to grant the Government's exclusion request (often over the Defense's opposition and demand for speedy trial). COL Coffman will testify that he approved separate requests for excludable delay covering a period from 12 July 2010 until 16 November 2011 (493 days of excludable delay).

b) SFC Monica Carlile, United States Army Legal Services Agency (USALSA), monica.carlile@us.army.mil, (571) 256-2869. SFC Carlile will testify regarding the circumstances of her signing for COL Coffman on the 22 April 2011 Excludable Delay Memorandum. At the time she signed for COL Coffman, she was a paralegal for the Office of the Staff Judge Advocate, Military District of Washington and worked under the supervision of the Trial Counsel. SFC Carlile will explain the role she played in that Government request for exclusion of 36 days of apparent inactivity between 18 March 2011 and 22 April 2011. She will also testify regarding her involvement in the processing of previous and subsequent requests for excludable delays to COL Coffman.

c) LTC Paul Almanza, paul.r.almanza@us.army.mil or paul.almanza@usdoj.gov, (202) 616-2250. LTC Almanza was the Article 32 Investigating Officer. He will testify regarding his decision to exclude two weeks of "federal holidays and weekends" between 23 December 2011 and 3 January 2012. During this time LTC Almanza chose not to work on the case. In response to a request from MAJ Fein, LTC Almanza elected to exclude these days. LTC Almanza will testify regarding his believed legal basis for such a decision.

- d) Dr. Michael Sweda, Chief, Forensic Psychology Service, michael.sweda@us.army.mil, (202) 782-5899. Dr. Sweda was in charge of the RCM 706. Dr. Sweda will testify regarding the basis or bases for the RCM 706 Board's requested delay from 3 March 2011 until the date he submitted the Board's report on 22 April 2011.
- e) Original Classification Authorities (OCAs). The various OCAs conducted reviews of the charged classified information in this case. The SPCMCA approved numerous requests for excludable delay by the Government apparently to provide the Government with time to obtain classification reviews from the various OCAs. Even the Article 32 Investigation was delayed for over eight months in order to obtain the OCA Disclosure Requests and the OCA Classification Reviews. The various OCAs will testify regarding the following: i) when the Government first contacted the specific OCA; ii) when the Government first requested the OCA to conduct a classification review; iii) the amount of times the trial counsel followed up with the OCA to determine the progression of the OCA's review; and iv) when the Government first requested the OCA to consent to disclose the classified evidence to the Defense. Each OCA will also explain the process of complying with the Government's request. The OCA will testify about: i) how long it took to complete the classification review and why; ii) how many people from its organization worked on the Government's request; and iii) the basis for any delay between completion of the classification review and the OCA giving consent to the Government to disclose the information. The Defense requests at least one witness with knowledge of the classification review process in this case from each OCA. The Defense requests the Government produce a witness from each of the following OCAs:
1. United States Central Command (CENTCOM);
 2. Joint Task Force – Guantanamo (JTF-GTMO);
 3. Department of State (DOS);
 4. Office of the Director of National Intelligence (ODNI);
 5. Other Government Agency for Specifications 3 and 15 of Charge II;
 6. Defense Information Systems Agency (DISA); and
 7. United States Cyber Command (CYBERCOM).
- f) Government's Due Diligence in Regards to RCM 701(a)(2) and RCM 701(a)(6)/Brady. The Defense requests a witness from each of the following organizations:
1. Headquarters Department of the Army (HQDA). On 29 July 2011, the Trial Counsel sent a request to Headquarters, Department of the Army to task Principal Officials to search for, and preserve, any discoverable information. The Defense requests a witness with knowledge from HQDA that can explain why no action was taken by HQDA for nine months after receiving the Trial Counsel's request. The witness will also testify regarding whether the Trial Counsel attempted to follow up on the 29 July 2011 memorandum at any time during the nine months of inactivity. Finally, the witness will testify about the time it took to comply with the 29 July 2011 request.

2. Department of State (DOS) and Diplomatic Security Services (DSS). On 30 May 2012, during an 802 conference, the Government admitted that they had not reviewed anything at the Department of State except for the DOS damage assessment. *See* Appellate Exhibit 99, p. 2. At the point of the Government's admission, the case had been ongoing for over two years. Despite this passage of time, the Government still had not conducted any DOS search for RCM 701(a)(6)/*Brady* material. The Defense requests a witness with knowledge from the DOS that can explain when the Government first contacted the DOS to conduct an RCM 701(a)(6)/*Brady* search. The Defense also requests that this witness, or another witness, be a person with knowledge regarding the Government's RCM 701(a)(2) search of the DOS files. Finally, the Defense requests that a witness be provided from Diplomatic Security Services (DSS) to testify to when the Government first contacted the DSS to conduct an RCM 701(a)(6)/*Brady* search and when the Government actually conducted this search.
3. Federal Bureau of Investigation (FBI). The Government first revealed on 31 May 2012 that the FBI had completed an impact statement. *See* Appellate Exhibit 100, p. 4. The Defense requests a witness to be produced from the FBI that can speak to when the impact statement was prepared. This witness should also be able to testify about how the Government was notified of the impact statement and when the Government first chose to view the impact statement. The Defense also requests a witness who can testify as to when the Government approached the FBI about its general discovery obligations and a *Brady* search.
4. Department of Homeland Security (DHS). The Government notified the Court and the Defense on 8 June 2012 that the DHS had completed a damage assessment. *See* Appellate Exhibit 173, p. 16. The Defense requests a witness to be produced from DHS that can speak to how and when the Government learned of the DHS damage assessment. This witness should also be able to testify about when the Government first chose to view the damage assessment.
5. Office of the National Counterintelligence Executive (ONCIX). The Defense requests a witness from ONCIX who can testify to: i) the representation made to trial counsel in February 2012 regarding the ONCIX damage assessment; ii) the representation made to trial counsel in March 2012 regarding the ONCIX damage assessment; iii) what ONCIX had by way of a damage assessment in February and March 2012; iv) the contents of the 18 May meeting with ODNI; v) when the Government first contacted ONCIX and what information the Government knew and when.
6. DIA, DISA, CENTCOM, SOUTHCOM, CYERCOM. The Defense requests a witness from each of these agencies to testify as to when the Government first contacted these organizations and when the Government actually conducted an RCM 701(a)(2) and 701(a)(6)/*Brady* search.

7. DOJ. The Defense requests a witness from the DOJ who can testify as to when the Government first contacted the DOJ and when the Government actually conducted a 701(a)(6)/Brady search.
8. Government Agency. The Defense requests a witness from Government Agency who can testify as to when the Government first contacted Government Agency and when the Government actually conducted a 701(a)(6)/Brady search. The Defense also requests a witness who can testify as to when the Government learned of the existence of the second follow-on report by Government Agency.
9. 63 Agencies: On 23 February 2012, the Government represented at an 802 session and later during an Article 39(a) that it had been conducting a RCM 701(a)(6)/Brady search for approximately a year and that it found no RCM 701(a)(6)/Brady material. See Article 39(a) Audio Recording 23 February 2012, (unauthenticated record of trial at p. 39). The representation by the Government is inconsistent with their its later admission that it first became aware that ONCIX had received input from the 63 various agencies in February of 2012. See Appellate Exhibit 173, p. 16-20. The Government stated that it was only after February of 2012 that it began reaching out to the 63 different agencies. Based upon this admission, it appears that the Government did not begin its search for RCM 701(a)(6)/Brady material from the 63 agencies until February of 2012. Accordingly, the Defense requests at one witness from each of these agencies to testify about i) when the Government first contacted them regarding this case; ii) when the Government first became aware of existence of agency files; and iii) when the Government first examined the agency's files.

2. In addition to the above witnesses, the Defense requests that the Court order the Government to provide a copy of its due diligence filing based upon Appellate Exhibit CLXXVII. Although the Government's filing was *ex parte*, based upon the Article 10 motion, this filing should no longer remain *ex parte*. Under *United States v. Kossman*, 38 M.J. 258 (C.M.A. 1993) the test for measuring compliance with Article 10, UCMJ, is "reasonable diligence." *Id.* at 262 ("The touch stone ... is not constant motion, but reasonable diligence in bringing the charges to trial."). As a result of the Defense's Article 10 motion, the Government is required to provide an account of its activities. See *United States v. Laminman*, 41 M.J. 518 (C.G.Ct. Crim App. 1994)(court suggests that the best way for the military judge to proceed with an Article 10 motion would be to have the parties enter a stipulation of fact as to the undisputed portions of chronology and then to present evidence on those relevant matters upon which there is disagreement.). In this instance, the current *ex parte* filing by the Government should provide a basis for the required account. The Government will also need to account for its post-arraignment activity. In *United States v. Cooper*, 58 M.J. 54 (C.A.A.F. 2003), C.A.A.F. stated, "We therefore hold that the Article 10 duty imposed on the Government immediately to try an accused who is placed in pretrial confinement does not terminate simply because the accused is arraigned." The court went on to say that post-arraignment, the military judge has much more control of the course of the trial, but the "affirmative obligation of reasonable diligence upon the government does not change."

3. If the Government's current *ex parte* filing contains any information which could be considered work product or revealing part of the Government's trial strategy, the Defense would not object to this information being redacted with the Court's approval. Obtaining the Government's due diligence filing in advance of the Article 10 motion will allow the Defense and the Government to enter into a stipulation of fact as to the undisputed portions of chronology and then to present evidence on those relevant matters upon which there is disagreement. Narrowing the scope of the Article 10 issues will also likely result in the elimination of one or more of the above requested witnesses, and enable the Government and Defense to focus their witness lists on only the disputed portions of the chronology.

4. The Defense reserves the right to supplement this witness list should it be necessary to do so. If the Defense submits any additional request for witnesses, it will do so in a timely manner.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'D. E. Coombs', with a stylized flourish at the end.

DAVID EDWARD COOMBS
Civilian Defense Counsel

UNITED STATES OF AMERICA

v.

Manning, Bradley E.
PFC, U.S. Army,
HHC, U.S. Army Garrison,
Joint Base Myer-Henderson Hall
Fort Myer, Virginia 22211

Prosecution Disclosure
to the Defense

17 August 2012

The United States responds to the Court's Order, dated 29 May 2012 as follows:

On 17 August 2012, the United States filed an *ex parte* motion requesting the Court consider that motion *in camera* and *ex parte* under MRE 505(g)(2) and to authorize redactions of portions of the Defense Intelligence Agency (DIA) records that neither involve investigation, damage assessment, or mitigation measures, nor are otherwise subject to discovery or production under Brady, RCM 701(a)(2), RCM 701(a)(6), or RCM 703(f). The United States requested the Court authorize redactions under MRE 505(g)(2)(A). See Enclosure. The United States seeks to protect information relating to intelligence activities and intelligence sources and methods, all within the national security interests of the United States.



ASHDEN FEIN
MAJ, JA
Trial Counsel

Enclosure

Government *ex parte* Motion (DIA) [unclassified redacted version]

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UNITED STATES OF AMERICA)

v.)

Manning, Bradley E.)
PFC, U.S. Army,)
HHC, U.S. Army Garrison,)
Joint Base Myer-Henderson Hall)
Fort Myer, Virginia 22211)

Government *in camera* Motion
for Authorization of Redactions of
DIA Records
under MRE 505(g)(2)

17 August 2012

RELIEF SOUGHT

(U) COMES NOW the United States of America, by and through undersigned counsel, respectfully requests this Court to: (1) consider this motion *in camera* and *ex parte* under Military Rule of Evidence (MRE) 505(g)(2); and (2) authorize redactions of portions of the Defense Intelligence Agency (DIA) records (hereinafter "records") under MRE 505(g)(2) that neither involve investigation, damage assessment, or mitigation measures, nor are otherwise subject to discovery or production under Brady, Rule for Courts Martial (RCM) 701(a)(2), RCM 701(a)(6), or RCM 703(f).

BURDEN OF PERSUASION AND BURDEN OF PROOF

(U) As the moving party, the United States has the burden of persuasion on any factual issue the resolution of which is necessary to decide the motion. RCM 905(c)(2). The burden of proof is by a preponderance of the evidence. RCM 905(c)(1).

FACTS

(U) On 22 June 2012, the Court ordered (hereinafter "Court Order") the prosecution to seek out and identify files regarding the accused that involve investigation, damage assessment, or mitigation measures, and to notify the Court with a status of whether it anticipates any government entity that is the custodian of classified evidence that is the subject of the Defense Motion to Compel will seek limited disclosure IAW MRE 505(g)(2) or claim a privilege IAW MRE 505(c) for the classified information under that agency's control.

(U) On 19 July 2012, the prosecution requested leave of the Court until 17 August 2012 (1) to notify the Court with a status of whether it anticipates the custodian of classified evidence will seek limited disclosure IAW MRE 505(g)(2) or claim a privilege IAW MRE 505(c) for the classified information under that agency's control; (2) to file notice IAW MRE 505(i)(2), if necessary; and (3) if necessary, to disclose such files regarding the Accused that involve investigation, damage assessment, or mitigation measures to the Defense or, submit them to the Court for *in camera* review under RCM 701(g) or for limited disclosure under MRE 505(g)(2) for Department of Defense (DoD) information classified collateral to "secret" and classified above

(U) On 19 July 2012, the defense did not object to the prosecution's request for leave and the Court granted the request on the record at the Article 39(a).

[REDACTED]

[REDACTED]

(U) The United States does not request any witnesses be produced for this motion. The prosecution requests that the Court consider enclosures listed at the end of this motion.

(U) If classified information is at issue in a court-martial, then the United States may agree to disclose the classified information to the defense under a protective order. See MRE 505(g)(1). Additionally, the United States may motion the Court to "authorize (A) the deletion of specific items of classified information from documents to be made available to the [accused], (B) the substitution of a portion or summary of the information for classified documents, or (C) the substitution of a statement admitting relevant facts that the classified information would tend to prove." MRE 505(g)(2). The military judge "shall authorize" these alternative forms, unless she determines "the disclosure of the classified information itself is necessary to enable the accused to prepare for trial." Id. If a motion is filed under MRE 505(g)(2), then upon request of

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

the United States, the motion "shall" be considered by the military judge *in camera* and "shall not be disclosed to the accused." Id.

[REDACTED]

(U) Pursuant to the Court's Order, the prosecution sought out DIA records regarding the accused that involve investigation, damage assessment, or mitigation measures. The prosecution also sought out DIA records subject to discovery or production under Brady, RCM 701(a)(2), RCM 701(a)(6), or RCM 703(f). See Brady v. Maryland, 373 U.S. 83 (1963). The prosecution identified information that involved investigation, damage assessment, or mitigation measures, or is otherwise subject to discovery or production under Brady, RCM 701(a)(2), RCM 701(a)(6), or RCM 703(f). The DIA reviewed that information to determine if it would authorize the prosecution to voluntarily disclose the original classified material to the defense under MRE 505(g)(1) or (g)(2). The DIA determined that the agency would disclose a majority of information under MRE 505(g)(1) and a limited amount of information in a redacted or summarized form under MRE 505(g)(2). See Enclosure 3. The prosecution disclosed the majority of the information on 3 August 2012 and on 17 August 2012.

[REDACTED]

[REDACTED]

[REDACTED] None of the redacted information is subject to discovery or production under Brady or RCM 701(a)(6). Therefore, the defense is not entitled to discovery of the redacted information.

(U) Should the Court find the redacted information is discoverable, or is "necessary to enable the accused to prepare for trial" under MRE 505(g)(2), then the United States requests the opportunity to either: (1) address the Court's findings with the relevant government agency to

[REDACTED]


[REDACTED]

determine whether a different alternative under MRE 505(g)(2) is appropriate and file that alternative with the Court, or (2) allow for the relevant government agency to claim a privilege under MRE 505(c) and the United States to move for an *in camera* proceeding under MRE 505(i).

(U) The prosecution will not use any redacted portions of the DIA records provided to the Court during any portion of the trial, including in aggravation, if applicable.

CONCLUSION

(U) The United States respectfully requests this Court: (1) consider this motion and the enclosures *in camera* and *ex parte* under MRE 505(g)(2), and (2) authorize redactions of portions of the DIA records that neither involve investigation, damage assessment, or mitigation measures, nor are otherwise subject to discovery or production under Brady, RCM 701(a)(2), RCM 701(a)(6), or RCM 703(f).


ASHDEN FEIN
MAJ, JA
Trial Counsel

Encl

Original DIA Records [REDACTED]
[REDACTED]
[REDACTED]

EXHIBIT 258
PAGES

WITNESSES/EVIDENCE

4. The Defense requests the following witnesses be produced for this motion:

- a) Col. Robert Oltman;
- b) Capt. William Hocter;
- c) COL Ricky Malone;
- d) Capt. Brian Moore;
- e) LCDR David Moulton;
- f) LTC Dawn Hilton;
- g) Mr. Juan Méndez;
- h) PFC Bradley Manning.

This Court has ruled that the testimony of Mr. Juan Méndez is not relevant and necessary for this motion.

5. The Defense requests the following evidence be produced for this motion:

- a) Suicide Smock;
- b) Suicide Blanket;
- c) Suicide Mattress.

ATTACHMENTS

6. The Defense respectfully requests that this Court consider the following Attachments:

1. Initial Custody Classification Determination
2. Psychiatrists' Weekly Recommendations
3. Secretary of Navy Instruction (SECNAVINST)1640.9C
4. Special Handling Instructions
5. Observation & Evaluation (O&E) Notes
6. Classification & Assignment (C&A) Board Reviews
7. Capt. Hocter Affidavit #1
8. Capt. Hocter Affidavit #2
9. COL Malone Affidavit
10. Memorandum to CWO4 Averhart About Conditions of Confinement, 5 January 2011
11. Request for Release From Confinement, 13 January 2011
12. COL Carl R. Coffman Jr., Response to Request for Relief From Confinement, 21 January 2011
13. PFC Manning Article 138 Complaint, 19 January 2011
14. PFC Manning Rebuttal to Col. Choike's Response to Article 138 Complaint, 10 March 2011 [hereinafter "Rebuttal to Article 138 Complaint"]
15. CWO4 James Averhart Response to Article 138 Complaint, 24 January 2011

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Defense Article 13 Motion

16. CWO4 Averhart Response PFC Manning Rebuttal to Article 138 Complaint, 16 March 2011
17. Col Oltman Response to Article 138 Complaint, 31 January 2011
18. Col. Choike Response to Article 138 Complaint, 1 March 2011
19. Col. Choike Notification of Separate Filing for New Matters Raised, 6 April 2011;
Col. Choike Response to PFC Manning Rebuttal to Article 138 Complaint, 8 April 2011; PFC Manning Rebuttal #2 and Request to Consider New Matter Raised, April 10
20. CWO2 Denise Barnes Response to Article 138 Complaint, 7 April 2011
21. CWO2 Barnes Response to PFC Manning Rebuttal to Article 138 Complaint, 10 May 2011
22. CWO5 Abel Galaviz Investigation in Response to Article 138 Complaint and Appointment Memorandum
23. Juan Garcia Final Action on Article 138 Complaint, 13 June 2011
24. Affidavits of Brig Guards Regarding Incident on 18 January 2011
25. Video Recording of Incident at Quantico Brig on 18 January 2011
26. Photo of Suicide Prevention Smock
27. Affidavit of Brig Guard Documenting Incident Where PFC Manning was Trapped in the Suicide Smock
28. Amnesty International Letter
29. Law Professors' Letter
30. Psychologists for Social Responsibility Letter
31. European Leaders' Letter
32. Materials Related to the United Nations Special Rapporteur on Torture, Mr. Juan Méndez
33. Emails between Mr. Coombs and CPT Fein related to: a) PFC Manning's POI status at Quantico; and b) arranging a unmonitored official visit
34. Quantico Brig Policy on Visitation
35. CWO4 Averhart Memorandum to the Office of the Regimental Judge Advocate, 1 December 2010
36. PFC Manning DD510 Grievance Re: Conditions of Confinement
37. Statement from Professor Haney on Solitary Confinement and Other Documentation From the United States Senate Committee on the Judiciary
38. Work Reports
39. Incident Reports
40. 5-minute Observation Notes (sample)
41. Amicus Filing from Psychologists for Social Responsibility

FACTS

7. PFC Manning is charged with five specifications of violating a lawful general regulation, one specification of aiding the enemy, one specification of conduct prejudicial to good order and discipline and service discrediting, eight specifications of communicating classified information, five specifications of stealing or knowingly converting government property, and two

specifications of knowingly exceeding authorized access to a government computer, in violation of Articles 92, 104, and 134, Uniform Code of Military Justice (UCMJ) 10 U.S.C. §§ 892, 904, 934 (2010). PFC Manning has been held in pretrial confinement since 29 May 2010, a total of 791 days. For 265 of these days, PFC Manning was held in conditions tantamount to solitary confinement at the Quantico Brig.

A. PFC Manning's Confinement in Kuwait and Transfer to Quantico

8. On 27 May 2010, PFC Manning was detained by agents from the Army's Criminal Investigation Division (CID). He was subsequently placed into pretrial confinement on 29 May 2010. PFC Manning was held in a secured area on Forward Operating Base Hammer, Iraq until he could be transported to the Theater Field Confinement Facility (TFCF) at Camp Arifjan, Kuwait. PFC Manning was transported to the TFCF on 31 May 2010.

9. During his time in Kuwait, PFC Manning's mental health deteriorated. PFC Manning was anxious, confused and disoriented for much of his time in Kuwait. Although he was seen by mental health providers in Kuwait, given the limited resources at the TFCF, the Government decided to transport PFC Manning to a facility with adequate specialized resources to manage PFC Manning's care.

10. PFC Manning was transported from the TFCF to the Marine Corps Base Quantico (MCBQ) Pretrial Confinement Facility (PCF) on 29 July 2010. The Duty Brig Supervisor (DBS) reviewed the inmate background summary and completed an initial custody classification determination (DD Form 2711). *See* Attachment 1. The DBS determined that PFC Manning's score was a "5," significantly lower than the "12 + Points" normally required for a MAX custody determination. Despite the low score, the DBS chose to override the custody determination and assign PFC Manning to MAX custody. The DBS cited PFC Manning's previous suicide watch while in Kuwait as the rationale for this decision. *Id.* The PCF Commander, CWO4 James Averhart, approved of the MAX custody determination by the DBS and also decided that PFC Manning should be placed under special handling instructions of Suicide Risk (SR).

11. On 30 July 2010, Navy Captain (Capt.) William Hocter, the forensic psychiatrist for the Brig, conducted his first assessment of PFC Manning. Capt. Hocter has over 20 years of experience as a forensic psychiatrist. At the time of his assessment, he was the Senior Medical Officer for the Behavioral Health Clinic at Quantico with the responsibility for providing psychiatric care to all active duty personnel stationed at Quantico. One of his collateral duties was to provide onsite mental health care to the Brig detainees. Capt. Hocter initially recommended observing PFC Manning on Suicide Risk precautions because of his suicide watch in Kuwait. Within days of arriving at the Brig, PFC Manning began to respond favorably to treatment. On 6 August 2010, Capt. Hocter determined that PFC Manning was no longer considered a suicide risk. He recommended that PFC Manning be moved from Suicide Risk to Prevention of Injury (POI) status. *See* Attachment 2. Knowing that the Brig was very concerned about PFC Manning's safety, and because there had been a suicide in the Brig earlier that year, Capt. Hocter elected to obtain the services of another senior forensic psychiatrist, COL Rick

Malone, as a consultant/second opinion. COL Malone evaluated PFC Manning and he concurred that PFC Manning should be downgraded from Suicide Risk to POI. Despite these recommendations and contrary to the requirements of Secretary of Navy Instruction (SECNAVINST) 1640.9C, the Brig did not immediately remove PFC Manning from Suicide Risk. *See* Attachment 3, Section 4205.5.d. ("When prisoners are no longer considered to be suicide risks by a medical officer, they shall be returned to appropriate quarters."). Instead, it was not until almost a week later, on 11 August 2010, that CWO4 Averhart directed PFC Manning be moved from Suicide Risk to POI. *See* Attachment 5.

12. Over the course of the following three weeks, PFC Manning was observed by the Brig staff and received regular treatment from the Brig psychiatrists. During this time, the Brig staff noted in PFC Manning's Observation and Evaluation (O&E) notes that he was adjusting well to confinement. *See generally* Attachment 5. The Brig staff noted that PFC Manning "has presented no problems and has been courteous and respectful to staff." The Brig staff also noted that PFC Manning's conduct "has been excellent" and that PFC Manning states he "does not have any suicidal feelings" and "has not been suicidal since arriving at Quantico and mentally feels good." *Id.* Given his exemplary behavior, the Brig staff informed PFC Manning of the process of reducing his custody and classification and of the possible job assignments that PFC Manning could receive while in confinement. PFC Manning indicated that he would like a job in the Brig library.

13. On 27 August 2010, Capt. Hocter determined that PFC Manning was no longer considered a risk of self-harm and recommended that PFC Manning be taken off of POI status. *See* Attachment 2. The PCF Commander did not follow Capt. Hocter's recommendation.

B. PFC Manning is Held in MAX Custody and Under Prevention of Injury Status for the Next Eight Months

14. Under SECNAVINST 1640.9C, the regulation that details the proper procedures and safeguards for classification of inmates, evaluation of inmates, and the limited use of special quarters, a Maximum Custody detainee is subject to following mandatory restrictions:

- 1) Supervision must be immediate and continuous. A DD 509, Inspection Record of Prisoner in Segregation, shall be posted by the cell door and appropriate entries made at least every 15 minutes.
- 2) They shall not be assigned to work details outside the cell.
- 3) They shall be assigned to the most secure quarters.
- 4) Two or more staff members shall be present when MAX prisoners are out of their cells.
- 5) MAX prisoners shall wear restraints at all times when outside the maximum-security area and be escorted by at least two escorts (confinement facility staff or certified escorts, per article 7406).

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- 6) On a case-by-case basis, the CO/OIC/CPOIC may authorize additional restraint for movement of specific MAX prisoners. A military judge may direct that restraints be removed from a person in the courtroom if, in this judge's opinion, such restraint is not necessary. In all cases, the limitations of article 1102 of reference (b) shall be observed.

See Attachment 3. CWO4 Averhart adds the following characteristics of MAX custody:

- 7) Inmates must be under observation of a supervisor of the same sex.
- 8) Such prisoners shall be berthed in special quarters and physically checked every 5 minutes.

See Attachment 15.

15. By contrast, a Medium Custody detainee is subject to the following restrictions:

- 1) Supervision shall be continuous within the security perimeter and immediate and continuous when outside the security perimeter.
- 2) They shall not be assigned to work outside the security perimeter.
- 3) They shall wear restraints outside the security perimeter unless the CO/OIC/CPOIC directs otherwise.
- 4) They shall be escorted by at least two confinement facility staff or certified escorts, per article 7406, unless the CO/OIC/CPOIC directs only one escort is required.
- 5) They may be assigned dormitory quarters.

See Attachment 3.

16. PFC Manning was classified as a MAX detainee for the entirety of his time at Quantico. In addition to his MAX custody classification, PFC Manning was also held under POI status, which necessitated the use of special quarters. "Special Quarters" are described under Section 4205 of SECNAVINST 1640.9C as follows:

- a. Some prisoners require additional supervision and attention due to personality disorders, behavior abnormalities, risk of suicide or violence, or other character traits. If required to preserve order, the BRIG Os or, in their absence, the brig duty officers/duty brig supervisors may authorize special quarters for such prisoners for purposes of control, prevention of injury to themselves or others, and the orderly and safe administration of the confinement facility. A hearing to

determine the need for continued administrative segregation of the prisoner shall be conducted. This hearing may be by board action or by a member of the confinement facility appointed in writing by the BRIG O, and a written recommendation to the BRIG O will be provided within 72 hours of the prisoner's entry into segregation.

b. Special quarters is a group of cells used to house prisoners who have serious adjustment problems or certain medical issues, are highly temperamental or emotional, anti-social, some medical cases, or who cannot get along with other prisoners, or are persistent custodial problems. Special quarters are not a punitive measure and shall not be used as such. Prisoners must be made aware of the reason they are berthed in special quarters. Prisoners are assigned to special quarters by the BRIG O and shall not have normal privileges restricted unless privileges must be withheld for reasons of security or prisoner safety (e.g., suicide risks or aggressive, assaultive or predatory prisoners). For each period of 30 days a prisoner is retained in special quarters, the C&A board shall review and provide a recommendation to the BRIG O, who shall determine and certify the requirement for continuation in special quarters.

c. Disciplinary segregation is provided for in article 5105.3e.

d. Prisoners who have threatened suicide or have made a suicide gesture but are found fit for confinement may be placed within special quarters under continuous observation while in the category of suicide risk. CO/OIC/CPOIC may direct removal of prisoner's clothing when deemed necessary. Prisoner must be under observation of a supervisor of the same sex. Closed circuit television may be installed at a limited number of cells for observation, although cross gender monitoring is not authorized.

2. Procedures. All prisoners in special quarters shall be under continual supervision. Special precautions shall be taken in equipping, inspecting, and supervising their quarters to prevent escapes, self-injury, and other serious incidents. They shall be sighted at least once every 15 minutes by a staff member and shall be visited daily by a member of the medical department and the BRIG O. In addition, it is highly desirable that prisoners in special quarters be visited daily by a chaplain. Each sighting of and visit to any segregated prisoner shall be officially recorded and include date, time, name of visitor, and any appropriate remarks. DD 509, Inspection Record of Prisoner in Segregation, shall be used to record visits.

See Attachment 3. POI status is assigned to those prisoners who have given an indication that they intend or are contemplating harming themselves. See Attachment 15.

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17. The combination of PFC Manning's MAX and POI status meant that for approximately 9 months while at Quantico, PFC Manning was held in his 6x8 cell for 23-24 hours a day. His cell did not have a window or any natural light.

18. Owing to his classification as a MAX detainee, PFC Manning was subject to the following restrictions:

- a) PFC Manning was placed in a cell directly in front of the guard post to facilitate his constant monitoring.
- b) PFC Manning was awoken at 0500 hours and required to remain awake in his cell from 0500 to 2200 hours.
- c) PFC Manning was not permitted to lie down on his rack during the duty day. Nor was PFC Manning permitted to lean his back against the cell wall; he had to sit upright on his rack without any back support.
- d) Whenever PFC Manning was moved outside his cell, the entire facility was locked down. CWO4 Averhart describes this as follows, "While a maximum custody inmate is outside of a secured area, the facility will commence a lockdown until the inmate is returned to a secure area. No other inmates are allowed to move throughout the facility while a maximum custody inmate is outside of a secured area. At no time will maximum custody inmates be outside of a secured area at any time." See Attachment 15.
- e) Whenever PFC Manning was moved outside his cell, he was shackled with metal hand and leg restraints and accompanied by at least two guards.
- f) From 29 July 2010 to 10 December 2010, PFC Manning was permitted only 20 minutes of "sunshine call." Aside from a 3-5 minute shower, this would be the only time PFC Manning would regularly spend outside his cell. During this sunshine call, he would be brought to a small concrete yard, about half to a third of the size of a basketball court. PFC Manning would be permitted to walk around the yard in hand and leg shackles, while being accompanied by a Brig guard at his immediate side (the guard would have his hand on PFC Manning's back). Two to three other guards would also be present observing PFC Manning. PFC Manning would usually walk in figure-eights or some other pattern. He was not permitted to sit down or stay stationary.
- g) Initially, Brig guards provided PFC Manning with athletic shoes *without* laces which would fall off when he attempted to walk. PFC Manning elected to wear boots instead because at least the boots would stay on when he walked.
- h) From 10 December 2010 onward, PFC Manning was permitted a one hour recreation call. At this point, the Brig authorized the removal of his hand and leg shackles and PFC Manning was no longer required to be accompanied by a Brig guard at his immediate

side. CWO4 Averhart describes PFC Manning's recreation privileges as follows: "Because the outdoor recreation area is not a secured area, restraints are not normally removed from maximum custody inmates. All inmates, unless in a SR, POI or disciplinary status are allowed to exercise while in their cells provided that it does not disrupt the good order and discipline of the facility. Due to the extended period of time that PFC Manning has been in a SR or POI status, and not allowed to exercise within his cell, I authorized PFC Manning's restraints to be removed while conducting recreation call inside although he is not in a secured area." See Attachment 15. Although PFC Manning was technically "permitted" to use exercise equipment at the gym, most of this equipment was unplugged or broken down. In addition, depending on the guards, they would not permit him to use certain types of equipment (e.g. the chin up bar). So as to avoid any problems with the guards, PFC Manning would usually walk around the room as he had during his sunshine calls. Three or four guards would be monitoring PFC Manning during his recreation call.

- i) PFC Manning was only authorized non-contact visits. The non-contact visits were permitted on Saturdays and Sundays between 1200 and 1500 hours by approved visitors. During these visits, he would have to wear his hand and leg restraints.
- j) PFC Manning was required to meet his visitors in a small 4 by 6 foot room that was separated with a glass partition. His visits were monitored by the guards and they were audio recorded by the Brig. The recording equipment was added by Army CID after PFC Manning's transfer to the Quantico Brig.
- k) PFC Manning was only permitted non-contact visits with his attorneys. During these visits, he was shackled at the hands and feet.
- l) PFC Manning was not permitted any work duty. However, "special quarters work and training reports" were routinely filled out pertaining to PFC Manning (presumably reports generated from observing PFC Manning cleaning his cell). See Attachment 38.

19. Owing to PFC Manning being placed on continuous POI status, he was subject to the following further restrictions:

- a) PFC Manning was subject to constant monitoring; the Brig guards were required to check on him every five minutes by asking him some variation of, "are you okay?" PFC Manning was required to respond in some affirmative manner. Guards were required to make notations every five minutes in a logbook. See Attachment 40.

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- b) At night, if the guards could not see him clearly, because he had a blanket over his head or he was curled up towards the wall, they would wake PFC Manning in order to ensure that he was okay.¹
- c) At night, only some of the lights would be turned off. Additionally, there was a florescent light in the hall outside PFC Manning's cell that would stay on at night.
- d) PFC Manning was required to receive each of his meals alone in his cell. He was only permitted to eat with a spoon.
- e) There were usually no detainees on either side of PFC Manning. If PFC Manning attempted to speak to those detainees that were several cells away from him, the guards would order him to stop speaking.
- f) PFC Manning originally was provided with a standard mattress and no pillow. PFC Manning tried to fold the mattress to make a pillow so that he could be more comfortable when sleeping. Brig officials did not like this, so on 15 December 2010 they provided him with a suicide mattress with a built-in pillow. This built-in pillow was only a couple of inches high and was not really any better than sleeping on a flat mattress.
- g) PFC Manning was not permitted regular sheets or blankets. Instead he was provided with a tear-proof security blanket. This blanket was extremely coarse and irritated PFC Manning's skin. At first, PFC Manning would get rashes and carpet burns on his skin from the blanket. Eventually, his skin became accustomed to the coarseness of the blanket and he got fewer rashes. The blanket did not keep PFC Manning warm because it did not retain heat and, due to its stiffness, did not contour to his body.
- h) PFC Manning was not allowed to have any personal items in his cell.
- i) PFC Manning was only allowed to have one book or one magazine² at any given time to read. If he was not actively reading, the book or magazine would be taken away from him. Also, the book or magazine would be taken away from him at the end of the day before he went to sleep.
- j) For the last month of his confinement at Quantico, PFC Manning was given a pen and five pieces of paper along with his book. However, if he was not actively reading his book and taking notes, these items would be taken away from him.
- k) PFC Manning was prevented from exercising in his cell. If he attempted to do push-ups, sit-ups, or any other form of exercise he would be forced to stop.

¹ CWO4 Averhart writes, "inmates are not authorized to cover their entire face with blankets while sleeping.

Inmates are not to be awakened for the purpose of bed checks, however positive identification must be made if no part of an inmate is visible. The only way for this to be possible is to ... awaken the inmate ...". See Attachment 15.

² He was also "permitted" one copy of the Brig's rules and regulations. See Attachment 15.

- l) When PFC Manning went to sleep, he was required to strip down to his underwear and surrender his clothing to the guards.
- m) PFC Manning was only permitted hygiene items as needed. PFC Manning would have to request toilet paper every time he wanted to go to the bathroom; at times, he had to wait for guards to provide him with toilet paper.
- n) There was no soap in his cell. PFC Manning requested soap to wash his hands after using the bathroom; guards would sometimes get the soap, and sometimes not.
- o) PFC Manning was not permitted to wear shoes in his cell.
- p) PFC Manning was initially only permitted correspondence time for one hour a day; after 27 October 2010, this was changed to two hours per day.

See Attachment 4.

C. Multiple Psychiatrists Recommended for Eight Months that PFC Manning Be Downgraded from POI Status

20. Over the course of eight months, with only two exceptions, Capt. Hocter and COL Malone consistently recommended that PFC Manning be removed from POI status. See Attachment 2.

21. Capt. Hocter states in his affidavit that the Brig did not follow his repeated recommendations to downgrade PFC Manning from POI. In his first affidavit, dated 7 April 2011, Capt. Hocter states as follows:

I, William J. Hocter, Jr., the undersigned, do hereby certify and swear that the following is true: I am an active duty member of the United States Navy. I have over 19 years of experience as a forensic psychiatrist. My current position is OIC, Combat Stress Clinic, Camp Leatherneck, Helmand Province, Afghanistan. My usual job is as Senior Medical Officer for the Behavioral Health Clinic at MCB Quantico. One of my collateral duties is to provide onsite medical health care to all active duty personnel on the base. In my duty position, I am responsible for providing psychiatric care to all active duty personnel on the base. I also provide limited forensic services as time permits.

Question A. Do you make recommendations to the Quantico Brig concerning whether a detainee is placed on either Suicide Risk or Prevention of Injury Status?

- 1. Yes.

Question B. In your experience, does the Quantico Brig follow your recommendation concerning either Suicide Risk or Prevention of Injury Status?

1. No. They generally keep patients on precautions longer than I recommend.

Question C. Have you made any recommendation concerning PFC Bradley Manning's custody and classification status? If so, what were your recommendations?

1. Yes. Please note that this is from recollection as I do not have access to my notes. I am currently at Camp Leatherneck in Afghanistan. I initially recommended observing PFC Manning on suicide precautions for the first couple of weeks after his arrival, both because of his suicidal behavior in Kuwait and because his medical record from Kuwait included a quote or a paraphrase from PFC Manning to the effect that he could be patient when it comes to suicide.
2. After a couple of weeks, it seemed reasonable to downgrade his precaution level to Prevention of Injury (POI) status. Knowing that the Brig was very concerned about his safety, and because there had been a suicide in the Brig earlier that year, I obtained the services of another forensic psychiatrist (Col. Rick Malone) to be a consultant/second opinion. He evaluated the patient and concurred that POI was appropriate. The Brig, as I best recall, waited a couple of weeks to put this recommendation into effect.
3. Subsequently, I recommended that he be removed from POI as he continued to do relatively well in the Brig (occasional mild, odd behaviors such as dancing around were noted in the log as well as possible sleep walking). Col. Malone concurred. These recommendations were not followed.
4. In the fall (I am uncertain of the date); PFC Manning became agitated after an odd incident with staff. As best as I could tell from discussing the matter with Manning and with staff, he had been performing some kind of yoga move in which he contorted his limbs in such a way that staff thought he was trying to hurt himself. They intervened and returned him to his cell. He was very upset about this (not suicidal) and so I briefly recommended he be put back on POI status as a safeguard because he was so upset. I rescinded this recommendation the following week as he had calmed.
5. Since then, I have continued to recommend that POI precautions be removed. As of the time of my leaving for Camp Lejeune to prepare for deployment, the recommendations had not been followed. CAPT Moore and Col. Malone can provide details of what occurred next.

Question D. Have your recommendations been followed by the Quantico Brig? If not, have you been given any reason for the Quantico Brig's decision not to follow your recommendations?

1. No. My understanding is that the Brig has not followed my recommendations because of great concern and worry that Manning will harm himself. I told them I thought the Max status (with every 15 minute visual checks of the detainee vice POI with every 5 minute checks) was more than sufficient to ensure his safety, from a psychiatric perspective. The every 5 minute checks done for POI is extremely rigorous, particularly for a second tier precaution. Every 15 minute checks was common for suicide precautions in other jails and correctional facilities where I have worked.

2. I wish to add that I do not believe the staff has disregarded my recommendations out of malice toward Manning. The Marine Corps, including Quantico, has had a miserable time with the problem of suicide recently. I am certain, from their point of view, the best way to avoid a tragedy is to watch a situation very closely and take action quickly. It has been difficult to help them see that good intentions can have unintended consequences (e.g., making the detainee more anxious and causing occasional agitation).

Question E. With respect to PFC Bradley Manning, is being held under Maximum Custody and either Suicide Risk or Prevention of Injury Status since 31 July 2010 detrimental to his mental or physical health? Why or why not?

1. I believe that (at the time I last saw him) Suicide precautions and POI were excessive and were making Manning unnecessarily anxious. This could be detrimental to his mental health. I was concerned about his physical health until they started to give him more time to exercise. Since Max status is not a psychiatric classification, I did not make a recommendation regarding it except to say that it easily (as a secondary effect of checking on him every 15 minutes) met his psychiatric safety needs at the time.

Question F. With respect to PFC Bradley Manning, have you seen or documented any behavior to suggest that he is a risk to harm others or himself, a disruptive detainee, or otherwise noncompliant with Quantico Brig rules and procedures?

1. Not since I met him. Given the report from Kuwait, I had expected more difficulty.

Question G. Without violating any patient-client confidentiality, can you address the events of 18 January 2010 and 2 March 2011 which the Quantico

Brig has used to further restrict PFC Bradley Manning's confinement conditions?

1. If I remember correctly, there had been some kind of disagreement between Manning and the staff and I was called urgently to come over at the end of the work day in order to see Manning. I remember being a bit annoyed because I had to report to Lejeune in less than 48 hours. I came over and it appeared that the staff was gearing up (and suiting up) for a cell extraction.³ I was able to defuse the situation, but frankly cannot remember what the disturbance was about. I remember it did not seem to be anything terribly serious, but my memory fails otherwise. CAPT Moore joined me halfway through this experience and may have a better recollection. By 2 March, I was in Afghanistan.

See Attachment 7.

³ A "cell extraction" is a term used in correctional facilities to describe the process of forcible removal of an inmate from his cell. The website <http://cellextractions.com/> describes what a "cell extraction" entails:

The use of force is inherent in the very nature of involuntary confinement. In prisons, "the responsible deployment of force is not only justifiable on many occasions, but absolutely necessary to maintain the security of the institution." The need to use force in a prison may sometimes include the forcible removal of an inmate from his cell, called a "cell extraction."

Cell extractions are security measures, not disciplinary mechanisms. In well-managed correctional systems, they are used only in response to an imminent and serious risk to the safety and security of an individual or of the institution. In such prisons, officers know cell extractions are rarely needed; in some prisons, however, the institutional culture permits cell extractions simply to show inmates "who's in charge" or to retaliate against defiant inmates, even if there is no real emergency.

When the decision has been made that an inmate cannot be allowed to remain in his cell, properly trained staff will make every effort to avoid a forced cell extraction. Officers will talk with the inmate. Indeed, it may be necessary for corrections staff to talk to an inmate for a prolonged period and then allow the inmate a "cooling down" period to increase chances that forcible extraction will not be necessary. Counselors or mental health staff may be brought in to talk to the inmate. If verbal efforts fail, in many facilities pepper spray is used to overcome the inmate's resistance.

If officials decide to go ahead with a forcible cell extraction, the increasingly prevalent practice is to use a team of four to six specially trained correctional officers. They wear protective equipment that typically includes major torso padding, Kevlar sleeves, big black gauntlets, a helmet, a face plate, and a groin guard. The team lines up in front of the cell, and the officers ask the inmate one more time whether he is willing to "cuff up"—submit to restraint and leave the cell. If the inmate continues his resistance, the team enters the cell. Often, the first member of the team to enter the cell carries a large convex Plexiglas shield or a stun shield (a shield equipped with an electric current which stuns the inmate on contact) with which he pins the inmate against the wall. The other members of the team then gain control of and place restraints on the inmate's arms and legs. In most cases, a well trained cell extraction team is able to secure the removal of even a violent prisoner with minimal or no harm to him or staff.

22. On 14 April 2010, Capt. Hoxter filed a supplemental affidavit, in response to a request for clarification and amplification of certain points from Defense counsel:

Question A. Do you make recommendations to the Quantico Brig concerning whether a detainee is placed on either Suicide Risk or Prevention of Injury Status?

I make recommendation about suicide precautions, POI, and occasionally steps that Brig might take to better a detainee's condition or deportment (more time to exercise, give him a job, help him with the legal work on financial problem, let him talk to his wife or girlfriend more often, please make sure a chaplain sees him). The Brig takes these under advisement and sometimes follows them, usually not. In Manning's case, I requested, in addition to removal of precautions, more time to exercise. After quite some time, and numerous requests (it became almost comical), this was granted.

Question B. In your experience, does the Quantico Brig follow your recommendation concerning either Suicide Risk or Prevention of Injury Status?

The Brig frequently ignores or delays my recommendation regarding precautions, including suicide precautions. This differs from any of the previous jails, briggs, or prisons in which I have worked, military or civilian. This occurred even before the suicide of a detainee in January 2010. Prior to the Manning case, this, among other issues, had make working at the Brig so frustrating that I asked to be relieved of these duties. This was not permitted. I have struggled to make the best of a situation that was not professionally pleasing. The addition of forensic psychiatry fellows to the milieu (for me to teach) has been invigorating and lifted my morale.

Question C. Have you made any recommendation concerning PFC Bradley Manning's custody and classification status? If so, what were your recommendations?

Nothing further.

Question D. Have your recommendations been followed by the Quantico Brig? If not, have you been given any reason for the Quantico Brig's decision not to follow your recommendations?

Neither the Brig Commander nor the Security Battalion Commander gave me any reasons for maintaining the POI precautions other than his safety. The Security Battalion Commander intimated that he was receiving instructions from a higher authority on the matter but did not say from whom. I know that the higher base

authorities had a frequent (sometimes weekly) meeting to discuss Manning, for which I supplied my CO with a status report – nothing that Manning had told me, mind you, but his condition and my recommendations, particularly to remove conditions I felt were unnecessary. I did not attend these meetings, mainly to protect Manning's confidentiality against inadvertent slips. On one occasion, concern was relayed to me about the odd behaviors seen in the cell mentioned in my previous affidavit. I reported that I was not worried about the sleep walking and the dancing.

I do not recall a meeting with the Base Commander (Col. Choike). The meeting I recall was with the Security BN CO, whose name I do not recall. He indicated that Manning would remain in current status (POI) unless and until he received instructions from higher authority (unnamed). I do not recall him saying he would be kept that way until his legal process was complete, but the impression he left was not to expect any changes in the near future. I cannot recall a direct quote.

Question E. With respect to PFC Bradley Manning, is being held under Maximum Custody and either Suicide Risk or Prevention of Injury Status since 31 July 2010 detrimental to his mental or physical health? Why or why not?

PFC Manning, according to his records from Kuwait, exhibited a disturbing level of mental instability, including suicidal behaviors. Thankfully, he was doing much better during his time with me. Inappropriate use of POI and other precautions can result in a loss of privacy and dignity that can worsen someone's condition. This could occur in Manning's case and lead to regression and additional suicidal behaviors. Whether the precautions are inappropriate now, I leave to the current treating psychiatrist.

Question F. With respect to PFC Bradley Manning, have you seen or documented any behavior to suggest that he is a risk to harm others or himself, a disruptive detainee, or otherwise noncompliant with Quantico Brig rules and procedures?

Given the amount of scrutiny he received from the Brig, and the seriousness of his charges, I had expected him to have many more problems. I had initially suspected that we would see regression and perhaps some suicidal behaviors. He held up remarkably well. He was generally a well behaved detainee.

Question G. Without violating any patient-client confidentiality, can you address the events of 18 January 2010 and 2 March 2011 which the Quantico Brig has used to further restrict PFC Bradley Manning's confinement conditions?

I think that Manning was beginning to chafe at the conditions of his incarceration (including POI) among other things, but I really don't remember the specifics. As you recall, I was due in Camp Lejeune in less than 2 days to begin training for deployment, still had some last minute packing to do, and needed to say good bye to my large family. In short, I had a lot on my mind. I really don't recall the specifics. I do recall having the thought, as I was sitting in the Brig talking to Manning that the whole situation could have been avoided.

See Attachment 8.

23. COL Malone also provided an affidavit to the same effect:

I, COL Ricky Malone, the undersigned, do hereby certify and swear that the following is true:

I am an active duty member of the United States Army. I have over ten years of experience as a forensic psychiatrist. My current duty position is Chief, Walter Reed Forensic Psychiatry Service, and I am the Forensic Psychiatry Consulting to the U.S. Army Surgeon General. In my duty position, I am responsible for overseeing the professional services and training activities for eight forensic psychiatrists and psychologists.

Question A. Do you make recommendations to the Quantico Brig concerning whether a detainee is placed on either Suicide Risk or Prevention of Injury Status?

1. It is my understanding that the Brig staff is authorized to initiate a Suicide Watch, but it requests concurrence by the psychiatrist to maintain it. Prevention of Injury, however, is treated as a custodial status to be determined by the Brig and I do not make a recommendation on the ultimate issue. I conduct a behavioral risk assessment to estimate the risk of harm to self or others (low, moderate, or high), based on static risk factors, modifiable risk factors, and protective factors, and provide that input to the Brig.

Question B. In your experience, does the Quantico Brig follow your recommendation concerning either Suicide Risk or Prevention of Injury Status?

1. They initiate more precautions than I would from a psychiatric perspective. Were he not in custody, at this point he would be appropriate for routine outpatient care.

Question C. Have you made any recommendation concerning PFC Bradley Manning's custody and classification status? If so, what were your recommendations?

1. No. I have stated that there is no psychiatric reason for him to be segregated from the general population, realizing that would only be one consideration.

Question D. Have your recommendations been followed by the Quantico Brig? If not, have you been given any reason for the Quantico Brig's decision not to follow your recommendations?

1. They have expressed concerns about his demeanor with no medical personnel are there, describing him as more withdrawn and reading less.

Question E. With respect to PFC Bradley Manning, is being held under Maximum Custody and either Suicide Risk or Prevention of Injury Status since 31 July 2010 detrimental to his mental or physical health? Why or why not?

1. It has long been known that restriction of environmental and social stimulation has a negative effect on mental functioning. Nevertheless, PFC Manning has been able to adapt somewhat and his anxiety disorder is currently in remission, significantly reducing his risk of self harm.

Question F. With respect to PFC Bradley Manning, have you seen or documented any behavior to suggest that he is a risk to harm others or himself, a disruptive detainee, or otherwise noncompliant with Quantico Brig rules and procedures?

1. When I first saw him in August 2010 I considered him to be at moderate to high risk of self harm. However, that has changed over the months and I have not had any further concerns. I have never heard of him being disruptive, but he does make provocative comments to the staff as part of his intellectualization (e.g. 2 March 2011).

Question G. Without violating any patient-client confidentiality, can you address the events of 18 January 2010 and 2 March 2011 which the Quantico Brig has used to further restrict PFC Bradley Manning's confinement conditions?

1. On 2 March 2011 PFC Manning made a comment (out of frustration when he described it to me), basically ridiculing the POI precautions because if he really wanted to kill himself he could use his flip flops or underwear waistband. The

Brig staff took this as evidence that he was at least thinking about it and removed them.

See Attachment 9.

24. Thus, as is clear, Capt. Hocter and COL Malone recommended for eight months that PFC Manning be removed from POI. Quantico officials chose time and again to ignore these recommendations.

E. PFC Manning Was a Model Detainee During his Time at Quantico

25. Although the Brig psychiatrists generally did not make any additional recommendations regarding MAX to MDI, the observation notes of PFC Manning during this time demonstrate that PFC Manning was consistently considered a model detainee. See Attachment 5.

- a) 3 August 2010 Entry: "SND [PFC Bradley Manning] did not receive any disciplinary reports or adverse spot evaluations and received an average work and training report." The entry also notes, "SNDs conduct has been average and has presented no problems to staff or inmates. During the interview SND was respectful and courteous and was well spoken. SND stated that he was doing well and was not having suicidal or homicidal feelings."
- b) 12 August 2010 Entry: "SND did not receive any disciplinary reports or adverse spot evaluations and received an average work and training report." The entry also notes, "SND stated that he would like a job in the facility library if it became possible. To this point in confinement SND's conduct has been average and has presented no problems to staff or inmates. During the interview SND was quiet, but courteous and respectful. SND answers questions but speaks very little unless responding to a question. Currently SND appears to be trying to adjust to the daily routine and observing what is going on around him. During the interview SND was well spoken, neat in appearance and maintained eye contact. SND stated that he does not have any suicidal feelings at this time."
- c) 16 August 2010 Entry: "SND was evaluated by the Brig Psychologist and found not to be a threat to himself. It is recommended that SND be removed from SR, and be placed on POI (sic) remain MAX custody."
- d) 17 August 2010 Entry: "The Brig Psychiatrist found SND to be a reduced threat to himself on 6 August 2010."

- e) 24 August 2010 Entry: "SND did not receive any disciplinary reports or adverse spot evaluation and received an average work and training report." The entry also notes "[t]o this point in confinement, SND has presented no problems and has been courteous and respectful to staff. SND's conduct has been excellent, so much so that it is apparent that he is extremely cautious about what he says or how he acts. During the interview SND was well spoken, groomed and neat in appearance."
- f) 27 August 2010 Entry: "SND has not presented any problems since his last review on 20 August 2010 and has been an overall average detainee."
- g) 31 August 2010 Entry: "SND did not receive any disciplinary reports or adverse spot evaluations and received an above average work and training report." The entry also notes "SND was evaluated by the Brig Psychiatrist on 27 August and was recommended to be removed from POI status. The C&A Board reviewed SND on the same date and recommended that he still remain POI. SND remains courteous and respectful to staff and has presented no problems toward staff or inmates thus far. During the interview SND was well spoken, groomed and neat in appearance."
- h) 3 September 2010 Entry: "SND has not presented any problems since his last review on 27 August 2010 and has been an overall average detainee."
- i) 8 September 2010 Entry: "SND did not receive any disciplinary reports or adverse spot evaluations and received an average work and training report." The entry also notes, "SND was evaluated by the Brig Psychiatrist on 3 September and was recommended to be removed from POI status." Additionally it states, "SND continues to be cooperative with Brig staff and has presented no disciplinary problems. During the interview SND was well spoken and neat in appearance. SND's mood and appearance were consistent with his normal character and he continues to state that he is not suicidal."
- j) 10 September 2010 Entry: "SND has not presented any problems since his last review on 3 SEPT 2010 and has been an overall average detainee."
- k) 14 September 2010 Entry: "SND did not receive any disciplinary reports or adverse spot evaluations and received an average work and training report." The entry also notes, "SND was evaluated by the Brig Psychiatrist on 10 September and was recommended to be removed

from POI status." Finally, the entry notes, "SND has been cooperative with Brig staff and has presented no disciplinary or behavioral problems. When observed in his cell, SND is always sitting quietly on his rack and appears to be content with doing nothing else. During the interview SND was well spoken and neat in appearance. SND's mood and appearance were consistent with his normal character and he continues to state that he is not suicidal."

- l) 28 September 2010 Entry: "SND did not receive any disciplinary reports or adverse spot evaluations and received an average work and training report." The entry also notes, "SND was evaluated by the Brig Psychiatrist on 24 September and was recommended to be removed from POI status. Later, the entry notes, "SND continues to be cooperative with Brig staff and has presented no disciplinary or behavioral problems. During the interview SND was well spoken and neat in appearance. SND's mood and appearance were consistent with his normal character and he continues to state that he is not suicidal."
- m) 4 October 2010 Entry: "SND was evaluated by the Brig Psychiatrist on 24 Sep 2010 and recommended to be removed from POI. SND has not presented any problems since his last review and has been an overall average detainee."
- n) 6 October 2010 Entry: "SND did not receive any disciplinary reports or adverse spot evaluations and received an average work and training report." The entry notes, "SND appears to be content with his situation and goes through the motions of the Brig's plan of the day without incident. SND was evaluated by the Brig Psychiatrist on 1 October and was recommended to be removed from POI status." The entry also notes, "SND continues to be cooperative with Brig staff and has presented no disciplinary or behavioral problems. During the interview SND was respectful, neat in appearance and maintained eye contact. SND's mood and appearance were consistent with his normal character and he continues to state that he is not suicidal."
- o) 12 October 2010 Entry: "SND did not receive any disciplinary reports or adverse spot evaluations and received an above average work and training report."
- p) 14 October 2010 Entry: "SND was evaluated by the Brig Psychiatrist on (no date given) and recommended to be removed from POI. SND has not presented any problems since his last review ..." The entry also notes "SND did not receive any disciplinary reports or adverse spot evaluations and received an above average work and training report."

- q) 22 October 2010 Entry: "SND did not receive any disciplinary reports or adverse spot evaluations and received an above average work and training report." The entry notes, "SND was evaluated by the Brig Psychiatrist this past week and found fit from (sic) removal of prevention of injury classification from a psychiatric standpoint." The entry also notes, "SND was respectful and courteous and well spoken. SND's attitude and demeanor were consistent with his normal character and he continues to state that he is not suicidal."
- r) 28 October 2010 Entry: "SND was evaluated by the Brig Psychiatrist on 15 October 2010 and recommended to be removed from POI. SND has not presented any problems since his last review on 8 October 2010 and has been an overall average detainee." Another entry on this date notes that "SND was evaluated by the Brig Psychiatrist on 22 October 2010 and recommended to be removed from POI. SND has not presented any problems since his last review on 15 October and has been an overall average detainee."
- s) 2 November 2010 Entry: "SND was evaluated by the Brig Psychiatrist on 29 October 2010 and recommended to be removed from POI. SND has not presented any problems since his last review on 22 October 2010 and has been an overall average detainee."
- t) 5 November 2010 Entry: "SND did not receive any disciplinary reports or adverse spot evaluations and received an average work and training report." The entry also notes, "SND was evaluated by the Brig Psychiatrist on 29 October 2010 and found fit to be removed from prevention of injury classification from a psychiatric standpoint." Finally, the entry notes, "During the interview SND was respectful and courteous and was well spoken. SND appears to be in high spirits and have a positive attitude. SND's attitude and demeanor were consistent with his normal character and he continues to state that he is not suicidal."
- u) 15 November 2010 Entry: "SND was evaluated by the Brig Psychiatrist on 13 November 2010 and recommended to ... [be removed from] POI. SND has not presented any problems since his last review on 5 NOV 2010 and has been an overall average detainee."
- v) 17 November 2010 Entry: "SND did not receive any disciplinary reports or adverse spot evaluations and received an above average work and training report." The entry also noted that "during the interview SND was respectful and courteous and was well spoken. SND's attitude

and demeanor were consistent with his normal character and stated that he is not suicidal."

- w) 23 November 2010 Entry: "SND was evaluated by the Brig Psychiatrist on 19 November 2010 and recommended to be removed from POI. SND has not presented any problems since his last review."
- x) 3 December 2010 Entry: "SND did not receive any disciplinary reports or adverse spot evaluations and received an average work and training report."
- y) 6 December 2010 Entry: "SND was evaluated by the Brig Psychiatrist on 2 December 2010 and recommended to be removed from POI. SND has not presented any problems since his last review on [no date given] and has been an overall average detainee."
- z) 7 December 2010 Entry: "SND did not receive any disciplinary reports or adverse spot evaluations and received an above average work and training report." The entry also noted, "[d]uring the interview SND was courteous and well spoken and he maintained good eye contact. SND's mood and character were consistent with his normal character."
- aa) 14 December 2010 Entry: "SND was evaluated by the Brig Psychiatrist on 10 December 2010 and recommended to remain on POI. (The Brig noted that this was the first time since 27 August 2010 that Capt. Hocter recommended PFC Manning remain on POI. His main criteria was that it seemed PFC Manning was not doing well). SND has not presented any problems since his last review and has been an overall average detainee."
- bb) 17 December 2010 Entry: "SND was evaluated by the Brig Psychiatrist on 17 December 2010 and recommended to be removed from POI. SND has not presented any problems since his last review and has been an overall average detainee."
- cc) 22 December 2010 Entry: "SND did not receive any disciplinary reports or adverse spot evaluations and received an above average work and training report." The entry also notes, "overall, SND was respectful and cooperative during the interview."
- dd) 29 December 2010 Entry: "SND did not receive any disciplinary reports or adverse spot evaluations and received an average work and training report." The entry also stated, "SND was evaluated by Capt. Hocter on 23 December 2010, and although further mental evaluation was deemed

necessary, SND was recommended to be removed from POI classification from a psychiatric standpoint.”

- ee) 6 January 2011 Entry: “SND was evaluated by the Brig Psychiatrist on 30 December 2010 and recommended to be removed from POI. SND has not presented any problems since last review and has been an overall average detainee.”
- ff) 7 January 2011 Entry: “SND was evaluated by the Brig Psychiatrist on 7 January 2011 and recommended to be removed from POI. SND has not presented any problems since his last review and has been an overall average detainee.” The entry also notes that “SND did not receive any disciplinary reports or adverse spot evaluations and received an average work and training report.” Finally, the entry notes that PFC Manning “is respectful and courteous to staff. During the interview SND was well spoken, maintained eye contact and his demeanor was consistent with his normal character.
- gg) 11 January 2011 Entry: “SND did not receive any disciplinary reports or spot evaluations and received an above average working and training report.”
- hh) 14 January 2011 Entry: “SND was evaluated by the Brig Psychiatrist on 14 January 2010 and recommended to be removed from POI. SND has not presented any problems since his last review and has been an overall average detainee.”
- ii) 18 January 2011 Entry: This is the first entry where any negative conduct is noted. This conduct is explained below.
- jj) 28 January 2011 Entry: “SND did not receive any disciplinary reports or adverse spot evaluations and receive(d) an average work and training report.” The entry also notes, “SND was evaluated by Col Malone on 21 January 2011 and, although further mental evaluation was deemed necessary, SND was recommended to be removed from POI classification from a psychiatric standpoint.”
- kk) 2 February 2011 Entry: “SND did not receive any disciplinary reports or adverse spot evaluations and received an average work and training report.” The entry also notes, “SND was well spoken, respectful and maintained eye contact.”
- ll) 7 February 2011 Entry: “SND did not receive any disciplinary reports or adverse spot evaluations and received an average work and training

report.” The entry also notes, “...SND was well spoken, respectful and maintained eye contact.”

- mm) 17 February 2011 Entry: “SND has not presented any problems since his last review and has been an overall average detainee.”
- nn) 25 February 2011 Entry: “SND did not receive any disciplinary reports or adverse spot evaluations and received an average work and training report.” The entry also notes, “...SND was well spoken, respectful and maintained eye contact.”
- oo) 2 March 2011 Entry: “SND did not receive any disciplinary reports or adverse spot evaluations and received an average work and training report.” The entry also notes, “...SND was well spoken, respectful and maintained eye contact.”
- pp) 9 March 2011 Entry: The entry notes that “SND was counseled on 2 March 2011 by the Brig supervisor for disobedience.” This incident is discussed further below.
- qq) 11 March 2011 Entry: “SND has not presented any problems since his last review and has been an overall average detainee.”
- rr) 18 March 2011 Entry: “SND has not presented any problems since his last review and has been an overall average detainee.”
- ss) 25 March 2011 Entry: “SND did not receive any disciplinary reports but did receive one adverse spot evaluation on 16 March 2011 for interfering with the application of hand restraints and restraint belt.” The entry also notes “he was respectful and courteous...”
- tt) 30 March 2011 Entry: “SND did not receive any disciplinary reports to adverse spot evaluations, and received an average work and training report.”
- uu) 5 April 2011 Entry: “SND has not presented any problems since his last review and has been an overall average detainee.”
- vv) 7 April 2011 Entry: “SND did not receive any disciplinary reports or spot evaluations, and received an average work and training report.”
- ww) 11 April 2011 Entry: “SND has not presented any problems since his last review and has been an overall average detainee.”

- xx) 15 April 2011 Entry: "SND has not presented any problems since his last review and has been an overall average detainee."

Despite being a model detainee, and despite the doctors' recommendations, PFC Manning was kept in MAX custody and under POI for the entirety of his time at Quantico, a total of 265 days.

F. The Classification and Assignment (C&A) Board Review of PFC Manning's Confinement Status

26. Under SECNAVINST 1640.9C, a Classification and Assignment (C&A) Board is required to be established and is responsible for making recommendations to the PCF Commander concerning the classification and assignment of detainees. Under the regulation, an objective based classification system is required. The purpose of the custody classification is to establish the degree of supervision needed for the control of an individual detainee. *See* Attachment 3.

27. The regulation recognizes that among detainees there are wide variations in personality and mentality. Some detainees are deliberately uncooperative. These detainees are chronic sources of trouble and may either be highly aggressive or acutely depressed. These types of detainees are identified under the regulation as being appropriately held in MAX. Detainees in MAX are those detainees "requiring special custodial supervision because of the high probability of escape, are potentially dangerous or violent, and whose escape would cause concern of a threat to life, property, or national security." *Id.* SECNAVINST 1640.9C also cautions that "[u]ltra-conservative custody classification results in a waste of prisoner and staff manpower." *Id.*

28. Classification decisions are supposed to follow "established, but flexible, procedures." The regulation notes that classifications involving MAX or MDI include the following factors:

- a. Assaultive behavior.
- b. Disruptive behavior.
- c. Serious drug abuse.
- d. Serious civil/military criminal record (convicted or alleged).
- e. Low tolerance of frustration.
- f. Intensive acting out or dislike of the military.
- g. History of previous escape(s).
- h. Pending civil charges/detainer filed.
- i. Serving a sentence which the individual considers to be unjust or severe.
- j. Poor home conditions or family relationships.
- k. A mental evaluation indicating serious neurosis or psychosis.
- l. Indication of unwillingness to accept responsibility for personal actions past and present.
- m. Demonstrated pattern of poor judgment.
- n. Length, or potential length, of sentence.

Although these factors apply equally to the determination of MAX or MDI, the regulation notes that MDI detainees are those that "are not regarded as dangerous or violent." *Id.* The regulation also cautions that "[o]rdinarily, only a small percentage of prisoners shall be classified as MAX." *Id.*

29. In spite of the E&O notes indicating PFC Manning was a "polite, courteous, and respectful detainee" who did not receive any disciplinary or adverse spot reports, and the repeated recommendations by the Brig psychiatrists that PFC Manning was not a risk of self-harm or of harm to others and should be removed from POI, the C&A Board consistently recommended that PFC Manning remain in MAX and POI. *See* Attachments 5 and 6. The recommendation of the C&A Board was always approved by the PCF Commander.

30. Although the C&A Board apparently met on a weekly basis, it failed to document its recommendations on the required Brig Form 4200 for over five months. *See* Attachment 6. The Brig filled out a Form 4200 on 29 July 2010 to document PFC Manning's initial intake. It did not fill out another form until 3 January 2011. *Id.* Notably, this was around the same time period that Quantico Brig began to come under outside scrutiny.

31. Week after week, month after month, the C&A Board unanimously recommended that the PCF Commander retain PFC Manning in MAX and on POI. The PCF commander always followed this recommendation. *Id.*

G. PFC Manning Is Put On Suicide Risk Status on 18 January 2011 and 2 March 2011

32. On two separate occasions, the PCF Commander elected to increase the special handling instructions on PFC Manning. The first occurred on 18 January 2011. On that date, CW04 Averhart, over the recommendation of Capt. Hocter and the defense forensic psychiatrist, Capt. Moore, placed PFC Manning under Suicide Risk. The Suicide Risk designation resulted in PFC Manning being required to remain in his cell for 24 hours a day. PFC Manning was stripped of all clothing with the exception of his underwear. PFC Manning's prescription eyeglasses were taken away from him and he was forced to sit in his cell in essential blindness. A guard was placed, sitting in a chair, immediately outside of PFC Manning's cell. At night, PFC Manning was forced to surrender his underwear and sleep naked. PFC Manning remained on Suicide Risk until 21 January 2011 when he was then downgraded back to POI. *See* Attachments 4, 5, 6.

33. The events that led to PFC Manning being placed in Suicide Risk began when he was pulled out of his cell on 18 January 2011 for his recreation call. When the guards came to PFC Manning's cell, PFC Manning noticed a change in their usual demeanor. Instead of being calm and respectful, they seemed agitated and confrontational. Also, instead of the usual two to three guards, there were four guards. Almost immediately, the guards started harassing PFC Manning. The first guard told PFC Manning to "turn left." When he complied, the second guard yelled, "don't turn left." When PFC Manning attempted to comply with the demands of the second guard, he was told by the first, "I said turn left." PFC Manning responded, "yes, Corporal" to the first guard. At this point, the third guard chimed in by telling PFC Manning that "in the Marine

Corps we reply with 'aye' and not 'yes.'" He then asked PFC Manning if he understood. PFC Manning made the mistake of replying "yes, Sergeant." At this point the forth guard yelled, "you mean 'aye,' Sergeant."⁴

34. The harassment by the guards continued as PFC Manning was escorted to his one hour of recreation. When PFC Manning arrived at the recreation room, he was told to stand still so the guards could remove his leg restraints. As PFC Manning stood still, one of the guards yelled, "I told you to stand still." PFC Manning replied, "yes Corporal, I am standing still." Another guard then said, "you mean 'aye' Corporal." Next, the same guard said "I thought we covered this, you say 'aye' and not 'yes,' do you understand?" PFC Manning responded, "aye Sergeant." Right after PFC Manning replied, he was once again yelled at to "stand still." Due to being yelled at and the intensity of the guards, PFC Manning mistakenly replied, "yes Corporal, I am standing still." As soon as PFC Manning uttered his response he attempted to correct himself by saying "aye" instead of "yes," but it was too late. One of the guards starting yelling at PFC Manning again, "what don't you understand" and "are we going to have a problem?"⁵

35. Once the leg restraints were taken off of PFC Manning, he took a step back from the guards. PFC Manning's heart was pounding in his chest, and he could feel himself getting dizzy. Capt. Hocter determined that this event was likely an anxiety attack due to the situation. After his restraints were removed, PFC Manning sat down to avoid falling. When he did this, the guards took a step towards him. PFC Manning instinctively backed away from the guards. As soon as PFC Manning backed away, the guards walked toward him as if to prepare to restrain PFC Manning. PFC Manning immediately put his hands up in the air, and said "I am not doing anything, I am just trying to follow your orders." The guards then told PFC Manning to start walking. PFC Manning complied with their order by saying "aye" instead of "yes."

36. PFC Manning was allowed to complete his hour of recreation. During the hour, the guards did not harass PFC Manning further. The guards also did not harass PFC Manning when he was escorted back to his cell. Only later did PFC Manning learn that there had been a protest outside the gates of Quantico the previous day. The rally was intended to bring attention to the conditions of PFC Manning's confinement and had caused disruption at the main gate to Quantico.

37. After being returned to his cell, PFC Manning started to read a book. About 30 minutes later, CWO4 Averhart came to PFC Manning's cell. He asked PFC Manning what had happened during his recreation call. As PFC Manning tried to explain to him what had occurred and to convey frustration with the continued conditions of his confinement, CWO4 Averhart stopped

⁴ LCPL Tankersley states, "I told [PFC Manning] to face the door. [PFC Manning] faced the door without responding. I informed [PFC Manning] that whenever a guard gives him an order, he is to respond in the correct manner (aye, aye, rank of person). [PFC Manning] then said he doesn't understand. CM2 Webb, the DBS, tried to inform [PFC Manning] that when a guard gives him an order, he needs to respond in the correct way." See Attachment 24.

⁵ The situation with the "aye" vs. "yes" is corroborated in GM2 Webb, LCPL Tankersley, and LCPL Cline's account of the incident. See Attachment 24.

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PFC Manning and said "I am the commander" and "no one will tell me what to do." CWO4 Averhart also said that he was, for all practical purposes, "God." PFC Manning responded by saying, "you still have to follow Brig procedures." PFC Manning also said, "everyone has a boss that they have to answer to." As soon as PFC Manning said this, CWO4 Averhart ordered that PFC Manning be placed in Suicide Risk. After being ordered into Suicide Risk, PFC Manning became upset. Out of frustration, PFC Manning placed his hands to his head and clenched his hair with his fingers. PFC Manning then yelled, "why are you doing this to me?" He also yelled, "why am I being punished?" PFC Manning then asked CWO4 Averhart "what have I done to deserve this type of treatment?"

38. CWO4 Averhart did not answer any of PFC Manning's questions. Instead, CWO4 Averhart instructed PFC Manning to surrender all of his clothing. At first PFC Manning tried to reason with CWO4 Averhart by telling him that he had been a model detainee and by asking him to just tell PFC Manning what he wanted him to do and that he would do it. Eventually, CWO4 Averhart left and instructed Master Sergeant (MSGT) Brian R. Papakie to take over. MSGT Papakie ordered PFC Manning to take off his clothes. PFC Manning complied with the order and took off his clothes.

39. The following conversation then took place, first between PFC Manning and MSGT Papakie, and then between PFC Manning and Gunnery Sergeant (GSYGT) Craig Blenis:

MSGT Papakie: I know what you're getting at, ok? I'm telling you that we're not outside the rules and regulations of anything that we're doing. *Period.* We're not. So I need your clothes.

PFC Manning: That's fine, sir. [Manning strips to his underwear. The rest of the conversation takes place with PFC Manning in his underwear].

MSGT Papakie: Skivvies say on?

Other guard: yes. ... leave those on.

MSGT Papakie: We're going to get someone over here to talk to you. ... You have one mattress, right? You have the one suicide blanket, right?

PFC Manning: Yes. Yes, sir.

MSGT Papakie: Shower shoes are fine. Let's get the doc over here. Doc Hocter. Sit down and see what's going on. Alright? I need you calm right now, alright? The escalation in your demeanor, alright, weighs us on the side of caution. Do you understand that?

PFC Manning: Yes, MSGT.

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MSGT Papakie: The best way to explain that to you is you had an outburst. You were moving around. You almost punched a wall. You're kind of throwing yourself around in the cell. To make sure you don't hurt yourself we're putting you on a suicide risk status. We're upgrading your status.

PFC Manning: But I'm not a suicide risk.

MSGT Papakie: That's not for me to decide. I have to make sure, the brig officer has to make sure, that you're taken care of.

PFC Manning: I understand MSGT.

MSGT Papakie: In the manner that you're not going to hurt yourself. Right now, I don't know that. With the display I saw right now, I'm not comfortable with. He's not comfortable with. Until we get something otherwise, this is how it's going to be.

PFC Manning: Why was I on, why was I on prevention of status for almost 6 months?

MSGT Papakie: [chuckles to himself] I know this is no secret to you ... I have plenty of documentation. Plenty of documentation based on things that you've said, things that you've done. Actions – I have to make sure, we have to make sure, that you're taken care of.

PFC Manning: Yes, MSGT.

MSGT Papakie: Things that you've said and things that you've done don't steer us on the side of "ok, well, he can just be a normal detainee." They make us stay on the side of caution.

PFC Manning: But what about recommendations by the psychiatrist to remove me off the status?

MSGT Papakie: Who's here every day? Who's here every day? We are. Who sees you every day? That's all he is, is a recommendation. We have, by law, rules and regulations set forth to make sure from a jail standpoint that Bradley Manning does not hurt himself. Maybe from a psychiatric standpoint, the recommendation he's given, I get it, I got it, understand, OK? But he's not the only decision maker. A mental health specialist is not the only decision that gets made.

PFC Manning: I understand that, sir.

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MSGT Papakie: However...

[MSGT Papakie leaves and GYSGT Blenis enters] [inaudible]

PFC Manning: I got dizzy ...

GYSGT Blenis: Wasn't dehydration?

PFC Manning: No, I was anxious because I didn't know why the guards were so edgy. ... They raised their voice ... And I didn't ... I was getting anxious because they were getting anxious. So I was trying to figure out what was the cause of them getting anxious. It seemed to me that they were looking for something wrong...

GYSGT Blenis: Something wrong as in a rules violation, or something wrong as in ...

PFC Manning: Yes.

GYSGT Blenis: Rules violation?

PFC Manning: Yes, sir. Because I've been here for a long time, so everything becomes automatic. So I don't know if I say something and they respond. I don't know what happened. I've been in, inside so long – I don't remember the last time I was outside.

...

[Portions of the rest of the dialogue between Blenis and PFC Manning are inaudible]

GYSGT Blenis: So, let's go back to when you fell down. Did you fall down or did you sit down? Or ...

PFC Manning: Ah, it was mixed. I mean, I was getting lightheaded because I was hyperventilating. So, I was trying to stand up. I was trying to keep from falling because I was worried that if I fell, then everybody would panic and that would make matters worse. So, I tried to stand up and I ended up falling...

...

GYSGT Blenis: Take me from end of rec hall to ... where we are now ...

PFC Manning: Ok, yes, I started, I got in here and it was normal. And then I started reading my book. And then, I want to say it was MSGT [inaudible] that was the first to show up. And then he came in and was asking me all these

questions. I was, ah, trying to figure out how to word the answers without causing any more anxiety. I was trying to figure out ways of not sounding, or not being construed as ... ways that things weren't going to be construed so that ... just trying to figure out ways in which I could tactfully say what I was trying to say without violating any rules and regulation or raise any concern about ...

GYSGT Blenis: Concern's already raised... [inaudible]

PFC Manning: Yes, but I'm trying not, I'm trying, I'm trying to avoid the concern, and it's actually causing the concern. I mean, cause, I'm getting ... every day that passes by, I'm getting increasingly frustrated, I'm not going to lie. Because I'm trying to do everything that I can *not to be* a concern, therefore I appear as though I am causing more concern. Or I ... Or it seems that I'm causing more concern or everybody's looking for something to cause concern. So that's what frustrates me. ... Trying to work out the most politically correct way of ...

GYSGT Blenis: [largely inaudible] Let's go back to today. ... The anxiety here, today. That's not the first time it's happened since you've been in confinement. As far as I know, it is the first time it's happened since you've been here ... but a similar situation ...

PFC Manning: I wasn't, in Kuwait, I had no idea what was going on generally.

GYSGT Blenis: But, would you say it was similar situation?

PFC Manning: No, no. The situation that happened today was more of ... you know, I'm lucid and aware and just trying to figure ... It's just a question of trying not to appear like I was in Kuwait. Because that's my main concern every day, is how do I get off of POI status? How do I get off of POI status? When will I be taken off of POI status? What is being used to justify the precautions? You know ... What concerns, you know, what am I doing that's concerning [inaudible]? So I'm constantly trying to figure out, run through all of those things. And trying to make sure I'm not doing anything...

GYSGT Blenis: [inaudible] ... As time goes on, we have less of a concern, ok?

PFC Manning: Yes, GYSGT. But the restrictions were still in place. And I was ...

GYSGT Blenis: Right. And we continually... We understand it's not normal that we have someone in POI for this period of time...

PFC Manning: Yes.

GYSGT Blenis: It's not [normal] ... I guess we'll just leave it at that. So as we go on, we're going to lessen your restrictions. They're still be restrictions in place ... [inaudible] But I would have to disagree with you as far as what happened today happened in Kuwait ... anxiety attack ...

PFC Manning: No, in Kuwait, I wasn't lucid. I had [guard interrupts]. It was like a dream...

GYSGT Blenis: But, they both ultimately ended up in you having an anxiety attack ... controlled fall, but ...

PFC Manning: No, I don't remember falling in Kuwait at all.

GYSGT Blenis: Well, I can tell you, that's what was reported to us ... none of us were there [refers again to PFC Manning's suicide status Kuwait] ... Us, as a facility, we have to always err on the side of caution, okay. And not just the side of caution, but over-caution. Especially when we're talking about suicide, okay? Nobody's saying you're going to kill yourself, alright? [inaudible] But we always have to be more cautious than that. But you're saying that 'nobody else is on suicide watch.' The thing is what happened in Kuwait, what happened today ...

PFC Manning: Those are totally different. I understand, I understand, I understand, where you're getting that ... from the documentation. I mean, I quite, I know where I am. I know I am ... I know I am at Quantico base facility. I know that I'm at a brig. I mean, I'm lucid and aware of where I am. I'm not ...

GYSGT Blenis: You asked [MSGT] a question ... about why you're on suicide watch, I'm trying to answer that question, okay? Did I answer that?

PFC Manning: Uh - no. No, with context. Because the fact that ...

GYSGT Blenis: [inaudible] Did you understand that?

PFC Manning: I would have understood had ... had I not been ... I would have understood had ... had I not been ... I mean, I'm trying to think of how to word this proper ...

GYSGT Blenis: Provoked? Provoked?

PFC Manning: Yes, a little. I feel like the facility, honestly, I feel like the facility is looking for reasons to keep me on POI status.

GYSGT Blenis: Inaudible. I can tell you 'no'...

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PFC Manning: I mean, at least not at the staff level, I'm thinking the CO – me, myself, personally.

GYSGT Blenis: Inaudible ... From a logistical standpoint, it's a burden on us. ...

PFC Manning: Yes, MSGT.

GYSGT Blenis: Nobody finds that as a joy. It's not a punitive thing, I understand why someone would see it as a punitive thing because restrictions placed [inaudible] ... I can tell you that ... since you have been here ... I wish I had a hundred Mannings ...

PFC Manning: And that's what... And that's where I don't understand why the continuation of the policy and restrictions beyond the time recommended by you and the psychiatrist. I mean the psychiatrist, is saying. I mean, I've got my own forensic psychiatrist that's saying now that the POI status is actually doing psychiatric harm and not, you know, and it's actually, you know, increasing my chances, rather than decreasing...

GYSGT Blenis: Did you feel like that two weeks ago?

PFC Manning: What's that?

GYSGT Blenis: Did you feel like that two weeks ago?

PFC Manning: Yes GYSGT.

GYSGT Blenis: Uh, two weeks ago, I asked you, like, how you were feeling and you said you were fine, do you remember that?

PFC Manning: Yes, and I still feel fine. I mean, I feel, I feel fine, but at the same time, I've been putting in, I've been putting in...

See Attachment 25.

40. Later that day, Capt. Hocter and Capt. Moore arrived at the facility. Capt. Hocter and Capt. Moore interviewed PFC Manning and assessed his mental state. They did not concur with CWO4 Averhart's decision to place PFC Manning on Suicide Risk status. Both mental health professionals believed PFC Manning was not a suicide risk. Out of an abundance of caution, Capt. Hocter recommended that PFC Manning be placed in 24 hour POI status. CWO4 Averhart ignored this recommendation and kept PFC Manning on Suicide Risk status. See Attachments 2, 4, 7, 8.

41. In CWO5 Abel Galaviz's investigation of the conditions of PFC's Manning's confinement, he found that the failure to immediately take PFC Manning off of Suicide Risk status upon the psychiatrist's recommendation was in violation of Navy rules:

It warrants mentioning, however, that on two occasions, 6 August 2010 and 18 January 2011, a medical officer determined that suicide risk status was no longer warranted and the brig staff did not immediately take PFC Manning off suicide risk status. ... Paragraph 4205.5b of reference (a) states "When prisoners are no longer consider to be suicide risks by a medical officer, they shall be returned to appropriate quarters," in these cases, once the medical officer's evaluation was provided to the brig staff, steps should have been taken to immediately remove him from suicide risk, to a status below that.

See Attachment 22.

42. Col. Daniel J. Choike, the Commander of Marine Corps. Base, Quantico, balked that Quantico had done anything wrong by not removing PFC Manning from Suicide Risk upon the recommendation of a medical health provider, stating "there is no requirement ... that requires an immediate removal from suicide risk after the PCF mental health care provider or medical officer recommends it." See Attachment 18. Tellingly, though, Col. Choike later changed the Brig regulation such that a medical provider's opinion on terminating suicide risk status would be binding on the Brig. See Attachment 19.

43. The second incident where the special handling instructions were increased occurred on 2 March 2011. On that date, PFC Manning was informed by Col. Choike that no relief would be granted with respect to PFC Manning's previously-filed Article 138 Complaint. Understandably frustrated by this decision after enduring (at that point) over seven months in unduly harsh confinement conditions, PFC Manning asked the Brig Operations Supervisor, MSGT Papakie, what he needed to do in order to be downgraded from MAX and POI. MSGT Papakie responded by essentially telling PFC Manning that there was nothing he could do to downgrade his detainee status and that the Brig simply considered him a risk of self-harm. Out of frustration, PFC Manning responded that the POI restrictions were absurd. PFC Manning sarcastically told MSGT Papakie that if he wanted to harm himself, he could conceivably do so with the elastic waistband of his underwear or with his flip-flops. MSGT Papakie did not indicate to PFC Manning at that time that he was concerned about PFC Manning's comment.

44. Later that same day, PFC Manning was approached by GYSGT Blenis. GYSGT Blenis asked PFC Manning what he had done wrong. He told PFC Manning that the new PCF Commander, CWO2 Denise Barnes, had ordered PFC Manning to be stripped naked at night. PFC Manning responded that he had not done anything wrong. PFC Manning told GYSGT Blenis that he had just pointed out the absurdity of his current confinement conditions.

45. Without consulting any of the Brig's mental health providers, CWO2 Barnes increased the restrictions imposed upon PFC Manning under the pretense that PFC Manning was a suicide

risk. See Attachment 4. PFC Manning was not, however, placed under the designation of Suicide Risk. In order to keep PFC Manning in Suicide Risk, CWO2 Barnes would have needed a supporting recommendation from one of the Brig's mental health providers. While CWO2 Barnes needed the Brig psychiatrist's recommendation to keep PFC Manning under Suicide Risk, no such recommendation was needed in order to increase PFC Manning's special handling instructions under POI.

46. In response to this specific incident, COL Malone met with the PFC Manning. After speaking to PFC Manning, he assessed PFC Manning as a "low risk and requiring only routine outpatient follow-up [with] no need for ... closer clinical observation." See Attachment 2. In particular, he indicated that PFC Manning's statement about the waist band of his underwear was in no way prompted by "a psychiatric condition." *Id.* Rather it was part of his process of "intellectualizing" the conditions of his confinement.

47. CWO2 Barnes chose to ignore the assessment by COL Malone. From 2 March 2011 until the time he was transferred to the Joint Regional Correctional Facility (JRCF) at Fort Leavenworth, Kansas on 20 April 2011, PFC Manning was stripped of all his clothing at night. For the first couple of days, after surrendering his clothing to the Brig guards at night, PFC Manning had no choice but to lay naked in his cold jail cell until the following morning.

48. On 3 March 2011, PFC Manning was told to get out of bed for the morning DBS inspection. PFC Manning was not given any of his clothing back before the morning inspection. PFC Manning walked towards the front of his cell with his suicide blanket covering his genitals. The Brig guard outside his cell told him that he was not permitted to cover himself with his blanket because that would mean that he would not be standing at parade rest. PFC Manning relinquished the blanket and stood completely naked at parade rest, which required him to stand with his hands behind his back and his legs spaced shoulder width apart. PFC Manning stood at parade rest for about three minutes until the DBS arrived. Once the DBS arrived, everyone was called to attention. The DBS and the other guards walked past PFC Manning's cell. The DBS looked at PFC Manning, paused for a moment, and then continued to the next detainee's cell. After the DBS completed his inspection, PFC Manning was told to go sit on his bed. Several minutes later, PFC Manning was given his clothes and allowed to get dressed. PFC Manning was also required to stand naked at attention the next four days.

49. After apparent outside pressure on the Brig due to PFC Manning's mistreatment, PFC Manning was provided with a suicide smock to wear at night. See Attachment 26. However, due to PFC Manning's size and the coarseness of the smock, he had difficulty sleeping. PFC Manning is five foot three in height and weighs approximately 115 pounds. The smock was not designed for someone of his size. On one occasion, PFC Manning was being choked by the smock and was unable to free himself. As PFC Manning struggled to get out of the smock, two guards entered his cell and assisted in removing PFC Manning from the smock. See Attachment 27.

50. To recap, on 18 January 2011 and 5 March 2011, the Brig increased the already onerous restrictions placed on PFC Manning in the following manner:

- a) From 18 January 2011 until 20 January 2011, PFC Manning was forced to strip down to his underwear during the day.
- b) From 18 January 2011 until 20 January 2011, PFC was forced to sleep naked at night.
- c) From 18 January 2011 until 20 January 2011, PFC Manning's eyeglasses were taken away from him.
- d) From 18 January 2011 until 20 January 2011, PFC Manning was not permitted out of his cell and was on 24-hour suicide watch.
- e) From 2 March 2011 until 6 March 2011, PFC Manning was forced to surrender all his clothing at night and sleep naked.
- f) From 2 March 2011 until 6 March 2011, PFC Manning was forced to surrender his eyeglasses during the day and at night. After 6 March 2011, his eyeglasses were returned to him during the day, but continued to be removed from him at night.
- g) On 3 March 2011 until 6 March 2011, PFC Manning forced to stand naked at parade rest where he was in view of multiple guards.
- h) From 7 March 2011 onward, PFC Manning was required to wear a heavy and restrictive suicide smock which irritated his skin and, on one occasion, almost choked him.

H. Col. Robert Oltman's Order that PFC Manning Would Not Be Downgraded from POI and MAX

51. On 13 January 2011, Col. Robert G. Oltman, the Security Battalion Commander and senior rater of the Brig Commander, held a meeting to discuss PFC Manning's confinement conditions. The current Brig Commander, CWO4 Averhart, and his leadership staff were present. So too was the incoming Brig Commander, CWO2 Barnes. Along with the Brig leadership, the Brig psychiatrists (Capt. Hocter and Capt. Moore) and the Brig Judge Advocate, were also present.

52. At that meeting, Col. Oltman ordered that PFC Manning would be held in maximum custody and POI indefinitely. Col. Oltman stated that "nothing is going to happen to PFC Manning on my watch." Col. Oltman also said, "nothing's going to change. He won't be able to hurt himself and he won't be able to get away, and our way of making sure of this is that he will remain on this status indefinitely." At this point, Capt. Hocter got very upset and voiced his concerns. Capt. Hocter said something to the effect of, "Sir, I am concerned because if you're going to do that, maybe you might want to call it something else, because it's not based on anything from

behavioral health.” In response, Col. Oltman said “We’ll do whatever we want to do. You [the Brig psychiatrists] make your recommendation and I have to make a decision based on everything else.” Capt. Hocter responded, “Then don’t say it’s based on mental health. You can say it’s MAX custody, but just don’t say that we’re somehow involved in this.” Col. Oltman said, “That’s what we’re going to do.”

53. Col. Oltman made it clear to those present at the meeting that the decision to keep PFC Manning in MAX and POI was coming from those higher in the chain of command. *See* Attachment 8 (“He indicated that Manning would remain in current status (POI) unless and until he received instructions from higher authority (unnamed). I do not recall him saying he would be kept that way until his legal process was complete, but the impression he left was not to expect any changes in the near future.”; “The Security Battalion Commander intimated that he was receiving instructions from a higher authority on the matter but did not say from whom.”).

54. During this meeting, Capt. Moore informed Col. Oltman that he would likely be appointed as a member of the Defense team. In response, Col. Oltman told him that “that’s not going to happen, doc.” The next day, 14 January 2011, Capt. Moore received his appointment order assigning him as a member of the Defense team. After this date, Capt. Moore was no longer invited to attend the weekly meetings with Col. Oltman.

55. Capt. Hocter was also aware that Installation Commander, Col. Choike, had frequent, sometimes weekly, meetings to discuss PFC Manning’s confinement classification and assignment. As part of these meetings, Capt. Hocter was required to provide the Brig Commander with a status report on PFC Manning. *See* Attachment 8 (“I know that the higher base authorities had a frequent (sometimes weekly) meeting to discuss Manning, for which I supplied my CO with a status report – nothing that Manning had told me, mind you, but his condition and my recommendations, particularly to remove conditions I felt were unnecessary.”).

I. Domestic and International Reaction to PFC Manning’s Conditions of Confinement

56. The conditions of PFC Manning’s confinement while at Quantico sparked domestic and international outrage. Among those that spoke out about PFC Manning’s inhumane conditions of confinement were the following:

- a) Amnesty International wrote a letter calling for the restrictive conditions of confinement to be lifted; *See* Attachment 28.
- b) A group of 300 law professors denounced the confinement conditions being endured by PFC Manning as being “degrading”, “inhumane,” “illegal,” and “immoral”; *See* Attachment 29.
- c) Preeminent constitutional law scholar Professor Laurence Tribe spoke out that the conditions under which PFC Manning was being held were “not only shameful but unconstitutional”; *See* <http://www.guardian.co.uk/world/2011/apr/10/bradley-manning-legal-scholars-letter>.

- d) Psychologists for Social Responsibility wrote a letter outlining the very harmful effects of prolonged solitary confinement and implored officials to "rectify the inhumane, harmful, and counterproductive treatment of PFC Manning"; See Attachment 30.
- e) Department of State spokesman P.J. Crowley referred publicly to PFC Manning's conditions of confinement being "ridiculous and counterproductive and stupid." He was later fired for his comment. See <http://www.guardian.co.uk/commentisfree/cifamerica/2011/mar/29/bradley-manning-wikileaks>.
- f) European leaders urged the United States to allow the United Nations to investigate claims of illegal pretrial punishment; See Attachment 31.
- g) Concerned citizens called Quantico and organized rallies and marches to bring awareness to PFC Manning's conditions of confinement.
- h) Congressman Kucinich pleaded for access to PFC Manning and compared the conditions of his confinement to Abu-Ghraib; See <http://kucinich.house.gov/news/documentsingle.aspx?DocumentID=227362>.

All these pleas fell upon deaf ears. Quantico continued to hold PFC Manning under MAX and in POI (or under Suicide Risk) for almost nine months.

57. Additionally, the United Nations Special Rapporteur on Torture, Mr. Juan Méndez, tried for months to set up an unmonitored meeting with PFC Manning where he could investigate claims of illegal pretrial punishment. All his requests were denied.⁶ In a letter to Mr. Méndez from Jeh Johnson, General Counsel for the Department of Defense, Mr. Johnson told Mr. Méndez "You should have no expectation of privacy in your communications with PFC Manning." See Attachment 32.

58. Mr. Juan Méndez published his findings in the 29 February 2012 Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

United States of America

(a) UA 30/12/2010 Case No. USA 20/2010 State reply: 27/01/2011 19/05/2011
Allegations of prolonged solitary confinement of a soldier charged with the unauthorized disclosure of classified information.

170. The Special Rapporteur thanks the Government of the United States of America for its response to this communication regarding the alleged prolonged solitary confinement of Mr. Bradley E. Manning, a US soldier charged with the unauthorized disclosure of classified information. According to the information received, Mr. Manning was held in solitary confinement for twenty-three hours a day following his arrest in May 2010 in Iraq, and continuing through his transfer to the brig at Marine Corps Base Quantico. His solitary confinement - lasting

⁶ Congressman Dennis Kucinich and officials at Amnesty International also tried to set up an unmonitored visit with PFC Manning, also to no avail.

about eleven months - was terminated upon his transfer from Quantico to the Joint Regional Correctional Facility at Fort Leavenworth on 20 April 2011. In his report, the Special Rapporteur stressed that "solitary confinement is a harsh measure which may cause serious psychological and physiological adverse effects on individuals regardless of their specific conditions." Moreover, "[d]epending on the specific reason for its application, conditions, length, effects and other circumstances, solitary confinement can amount to a breach of article 7 of the International Covenant on Civil and Political Rights, and to an act defined in article 1 or article 16 of the Convention against Torture." (A/66/268 paras. 79 and 80) Before the transfer of Pfc Manning to Fort Leavenworth, the Special Rapporteur requested an opportunity to interview him in order to ascertain the precise conditions of his detention. The US Government authorized the visit but ascertained that it could not ensure that the conversation would not be monitored. Since a non-private conversation with an inmate would violate the terms of reference applied universally in fact-finding by Special Procedures, the Special Rapporteur had to decline the invitation. In response to the Special Rapporteur's request for the reason to hold an unindicted detainee in solitary confinement, the government responded that his regimen was not "solitary confinement" but "prevention of harm watch" but did not offer details about what harm was being prevented. To the Special Rapporteur's request for information on the authority to impose and the purpose of the isolation regime, the government responded that the prison rules authorized the brig commander to impose it on account of the seriousness of the offense for which he would eventually be charged. The Special Rapporteur concludes that imposing seriously punitive conditions of detention on someone who has not been found guilty of any crime is a violation of his right to physical and psychological integrity as well as of his presumption of innocence. The Special Rapporteur again renews his request for a private and unmonitored meeting with Mr. Manning to assess his conditions of detention.

(b) AL 15/06/2011 Case No. USA 8/2011 State reply: None to date Follow-up to a letter sent 13 May 2011 requesting a private unmonitored meeting with Private (Pfc.) Bradley Manning.

171. The Special Rapporteur thanks the Government of the United States of America for its response to the communication dated 13 May 2011 requesting a private unmonitored meeting with Private Bradley Manning. Regrettably, to date the Government continues to refuse to allow the Special Rapporteur to conduct private, unmonitored, and privileged communications with Private Manning, in accordance with the working methods of his mandate (E/CN.4/2006/6 paras. 20-27).

Id.

59. Mr. Méndez told the British newspaper, The Guardian, that: "I conclude that the 11 months under conditions of solitary confinement (regardless of the name given to his regime by the prison authorities) constitutes at a minimum cruel, inhuman and degrading treatment in violation of article 16 of the convention against torture. If the effects in regards to pain and suffering inflicted on Manning were more severe, they could constitute torture." See <http://www.guardian.co.uk/world/2012/mar/12/bradley-manning-cruel-inhuman-treatment-un>.

60. The Defense tried repeatedly to assist Mr. Méndez (along with Congressman Kucinich and Amnesty International) in setting up an unmonitored visit with PFC Manning. The Government, along with the Brig, insisted that none of these would qualify as an "official" visit, and therefore must be monitored.

61. The Quantico Brig rules provide for both "authorized visits" and "official visits." The latter are not monitored. The rules provide as follows:

3.17. CORRESPONDENCE AND VISITATION: Confinement should not stop a prisoner from keeping in contact with members of their immediate family and authorized visitors via mail or personal visits. Each prisoner's family will be interested in their progress and concerned about their well-being and morale. Morale is a two way street and family members need be encouraged just as much as the prisoner. Prisoners are strongly urged to correspond and arrange visits. Prisoners are encouraged to place all potential visitors on their visitor list even if the chance or their visiting is remote. In the event during your confinement you wish to add additional people to the visitation list you must submit a DD Form 510 with name, relationship, age, and address to the Admin Chief. The following guidelines are applicable:

a. Authorized: No limitations will be imposed as to the number or persons who may visit with a prisoner, except as to maintain security, control, or to exclude persons disapproved by the Commanding Officer for cause. Authorized visitors include the prisoner's immediate family (spouse, children, parents, brothers, sisters or guardians) or anyone who has established a proper relationship with the prisoner prior to him being confined.

b. Official: These visits are for the purpose of conducting official government business, either on behalf of the prisoner or in the interest of justice. Visits from lawyers, military officials, civilian officials, or anyone listed as a privileged correspondence in paragraph 3.17f of this regulation, having official business to conduct are considered official visits and may be authorized by the Commanding Officer to visit at any time during normal working hours. All prisoners will be required to see official military visitor(s). Refusal to visit with official military visitors will be subject to disciplinary action.

...

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Privileged Correspondence: All incoming and outgoing correspondence (mail) between a prisoner and the following is privileged and not subject to inspection unless reasonable doubt exists as to the correspondence being bona fide:

- a. The President or Vice President of the United States.
- b. Members of Congress of the United States.
- c. The Attorney General of the United States and Regional Offices of the Attorney General.
- d. The Judge Advocate General of each military service or his/her representatives.
- e. Prisoners Defense Counsel or any military/civilian attorney of record.
- f. Any attorney listed in professional or other directories or an attorney's representative.
- g. Prisoner's clergyman, when approved by the chaplain.

See Attachment 34.

62. On 31 March 2012, Mr. Coombs wrote the following to CPT Fein:

I have informed Congressman Kucinich that he is authorized to visit PFC Manning under the rules and regulations for the Quantico Brig. Under Brig Order P1640.1C, paragraph 3.17, there are two types of visitors for a detainee, authorized and official.

1) Authorized visitors are required to be added by the detainee and approved by the Quantico Brig. Any person added to the authorized visitors list may visit the detainee on any Saturday or Sunday between the hours of 12:00 and 3:00 p.m. These visits are monitored by the Brig. The Brig requires the visits to take place in a no-contact booth for any detainee held in Maximum Custody. The doors to the booth must remain open and the entire visit will be recorded by the Brig. Anything said during these visits is not privileged and can be used later by the government in a court-martial proceeding.

2) Official visitors are for the purpose of conducting official government business, either on behalf of the detainee or in the interest of justice. Official visits may be authorized by the Brig Officer to visit a detainee at any time during normal working hours. The official visits are considered privileged, and are not subject to recording or monitoring. The Brig's rules and regulations identify the following individuals as qualifying for official visits:

- a) Military officials.
- b) Civilian officials.

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- c) The President or Vice President of the United States.
- d) Members of Congress of the United States.
- e) The Attorney General of the United States and Regional Offices of the Attorney General.
- f) The Judge Advocate General of each military service or his or her representative.
- g) Prisoner's Defense Counsel or any military or civilian attorney of record.
- h) Any attorney listed in professional or other directories or an attorney's representative.
- i) Prisoner's clergyman when approved by the chaplain.

Given the difference between authorized and official visits, PFC Manning does not want to waive his entitlement to have a privileged conversation with Congressman Kucinich. You should know, that Amnesty International is also making a request for an official visit as well as Mr. Juan Mendez, the United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

I have recommended that each of the above individuals contact the facility directly to arrange for an official visit. I am hoping that you will indeed ensure that the Quantico Brig honors its own rules and regulations.

See Attachment 33.

63. On 1 April 2011, Mr. Coombs contacted Lt. Col. Greer, the Staff Judge Advocate for Marine Corps. Base Quantico, regarding an official visit:

I have been informed by Congressman Kucinich's office and by Amnesty International that they have been told by your office they do not qualify for an official visit. Instead, they are being directed to request to be added to PFC Manning's "authorized" visitors list. Additionally, Congressman Kucinich's office is being told that the Brig Order that his office is referencing does not exist. I have seen Brig Order P16401C, dated 1 July 2010. This order clearly provides for both authorized and official visits.

Id. Thus, it appears that Brig Officials lied to Congressman Kucinich about the very existence of Brig Order P16401C.

64. On 5 April 2011, CPT Fein responded:

1. Brig Visitors.

While we understand your view of the Brig Order, we respectfully disagree with your interpretation of the attached relevant portion of the Brig Order with regard to visitation.

While you correctly recite what an "authorized" visitor is, an "official" visit is "for the purpose of conducting official government business, either on behalf of the prisoner or in the interest of justice," see para 3.17b. The next sentence simply states that "lawyers, military officials, civilian officials, or anyone listed as a privileged correspondence in para 3.17f . . . having official business to conduct are considered official visits" (emphasis added) and may visit at any time during normal working hours, subject to authorization by the Commanding Officer. Critical is the next sentence, "All prisoners will be required to see official military visitor(s)" (emphasis added). Therefore, an official visit to the brig by a Member of Congress conducting official government business or by a non-government organization's representative does not necessarily include a visit with PFC BM without PFC BM's consent.

You also state, "official visits are considered privileged, and are not subject to recording or monitoring" (emphasis added); however this not in the Brig Order. As noted in para 3.17f, which you cite as the authority, "all incoming or outgoing correspondence (mail) between a prisoner and the following is privileged and not subject to inspection," refers to, as stated, "mail" and not visitation (emphasis added). While you also state, "The Brig's rules and regulations identify the following individuals as qualifying for official visits," the reference you cite (para 3.17f) provides a list of government officials, including "Members of Congress." Again, that para refers to "mail" and not visitation protected under Section V of the MRE. Therefore, a visit by a Member of Congress would not be privileged within the meaning of the Brig Order, and would be monitored just like any other visitor.

The prosecution and brig's interpretation of the Brig Order outlines these types of visitors:

- a. "Authorized" visitors. Visitors that PFC BM places on his visitation list.
- b. "Official" visitors. Those officials listed in para 3.17b conducting official government business.

A person's membership in an organization does not necessarily confer upon that person "official" status. A Member of the Congress is conducting an "official" visit if he is conducting official Government business.

A member of a non-government organization is not "official" as they are not conducting government business. Should PFC BM desire to meet with any of the individuals whom you have mentioned as potential visitors, he will need to either

add them to his "authorized" visitor list or approve a meeting, through you, if the individuals make an "official" visit. As you know, from the beginning of PFC BM's confinement at Quantico, the rule requiring an "authorized" visitor to have a preexisting relationship with PFC BM has been relaxed to allow any visitor to visit, subject to standard security vetting and monitoring for national security purposes. This accommodation was based on the potential for his long-term pretrial confinement and for his benefit, well-being, and morale.

Regardless of the interpretation of the Brig Order, the SPCMCA issued a standing order on 16 Sep 10, which directs the Brig to monitor communications of third parties while confined at the Brig. This requirement includes all of PFC BM's phone calls, visitations, and mail. This requirement does not include monitoring of any privileged communications between PFC BM and his attorneys, mental health providers, and brig chaplains.

Further, as the United States has charged your client, you surely acknowledge our concern that PFC BM's right to counsel be scrupulously honored. Absent the command's weekly visit, which is limited to discussing PFC BM's welfare, we would not allow a U.S. Government representative to meet with your client without counsel being present or an affirmative waiver of that right by PFC BM. Properly adding a visitor as an "authorized" visitor will be deemed consent to speak with a government representative by the defense. Any such visit will be subject to monitoring unless it is subject to a recognized privilege under Section V, MRE (falls under the SPCMCA's exception).

In the future, please do not direct any organization to directly contact the Brig to coordinate any visit. If someone is trying to coordinate a formal meeting in an "official" capacity, they should coordinate through DOD Legislative Affairs (COL Tia Johnson) and their request to meet with PFC BM will be ultimately forwarded through you to PFC BM for consent to meet during such a visit.

We will continue to notify you when we receive information that someone wishes to meet with your client in an "official" capacity, and request the same courtesy in return, once your client agrees to meet with them.

Id.

65. On 6 April 2010, Mr. Coombs sent the following response to CPT Fein:

1. Thank you for your reply. Is the interpretation of the Brig Order the MDW SJA's interpretation, the Quantico Brig's interpretation, or simply your interpretation?

The sentence that you gloss over in your reply is actually the critical one from the Brig Order. This sentence states that "[v]isits from lawyers, military officials,

civilian officials, or anyone listed as a privileged correspondence in paragraph 3.17f of this regulation, having official business to conduct are considered official visits..." (Emphasis added). Congressman Kucinich, Mr. Juan Mendez from the United Nations, and any representative from Amnesty International would clearly fall within the scope of individuals identified in paragraph 3.17f and are therefore deemed to be official visits under the Brig Order.

Under the interpretation advanced in your previous message, a member of Congress is conducting an "official" visit only if he is conducting "official government business" and a member of a non-government organization is not "official" as they are not conducting "government business." Besides being an [sic] perfunctory argument without support under the Brig Order, it is also one that is easily nullified by using the example of a civilian attorney. Paragraph 3.17f states that a "civilian attorney of record" is deemed to be an official visit. A civilian attorney is clearly a non-government entity and as such is not conducting "official government business." This clearly belies any attempt to argue official visits are limited in the way that you suggest.

Moreover, official visits are clearly privileged under the Brig Order. While section 3.17f speaks to mail correspondence being privileged, it must follow that oral communications are also privileged. It would not make sense that a detainee would enjoy the protection of a privileged communication from an individual listed in paragraph 3.17f if the correspondence came by way of mail as opposed to an in-person conversation with the same individual.

With regards to the SPCMCA's standing order dated 16 September 2010, his failure to recognize other individuals who are entitled by the Brig Order to have a privileged conversation is not dispositive. The order is unenforceable given the fact it would authorize the recording of privileged conversations. Likewise, the government's concern surrounding PFC BM's right to counsel is misplaced. Mental health providers and brig chaplains are able to speak with PFC BM without coordination with civilian counsel. As long as the conversations are privileged, the government's concern would seem unwarranted.

Given the above, I request that you clarify the Quantico Brig's official position on this issue.

Id.

66. CPT Fein then clarified on 7 April 2011 that "Our interpretation is the Government's interpretation, to include the SJA and the Brig." *Id.* Owing to the interpretation of the Brig policy, PFC Manning was never permitted an unmonitored visit with the United Nations Special Rapporteur on Torture, Congressman Dennis Kucinich, or Amnesty International.

J. PFC Manning's Repeated Pleas for Relief From the Onerous Conditions of His Confinement

67. PFC Manning repeatedly requested to be removed from MAX and POI. Additionally, PFC Manning's civilian counsel made numerous requests of the United States Army Staff Judge Advocate's Office for the Military District of Washington to assist in removing PFC Manning from MAX and POI.

68. In the fall of 2010, Mr. Coombs and CPT Fein had several telephone conversations about the onerous conditions of PFC Manning's confinement. On 3 December 2010, Mr. Coombs wrote to CPT Fein asking whether he had "an update on the POI issue with PFC Manning." *Id.* Mr. Coombs continued,

Capt. Hocter saw PFC Manning on Thursday. It is my understanding that after speaking with PFC Manning, he is still recommending that the POI restrictions be lifted. As mentioned earlier, given the recommendation of Capt. Hocter, I do not believe the confinement facility has a legitimate non-punitive basis to keep PFC Manning on the POI status. Additionally, it is my understanding that other than in this instance, the confinement facility has never had anyone under POI restrictions for this length of time. This fact also cuts against a legitimate non-punitive basis.

Id. CPT Fein responded, "Although I understand your concern we are absolutely working this issue as our highest priority. Currently, there is a disconnect in multiple services with multiple competing regulations and we have to ensure the correct applicable rules apply." *Id.*

69. On 8 December 2010, CPT Fein had still not addressed the POI issue. Mr. Coombs wrote to him again saying, "How is the POI issue coming along? My understanding is that Capt. Hocter is still recommending that the POI be lifted." *Id.* CPT Fein responded, "we are still actively addressing the POI issue with Quantico." *Id.* Mr. Coombs responded,

Do you have a time-table on the POI issue. Earlier today, I spoke with Capt. Hocter. He told me that he is still recommending that PFC Manning be taken off of POI status. He told me that the behavior witnessed by the guards appears to be a result of a side effect from PFC Manning's sleep medication.

As I have said before, I believe the current confinement conditions rise to the level of unlawful pretrial punishment. Mr. Averhart does not have a legitimate basis to continue to ignore the advice of his mental health professional. Maintaining the POI status prevents PFC Manning from exercising, having basic items such as a pillow and sheet, and subjects him to prolonged isolation. Please tell me what you have done so far to address this issue, and the additional steps that you plan to take to resolve it.

Id. The next day, on 9 December 2010, CPT Fein responded to Mr. Coombs, stating, "Tomorrow the Quantico Brig is holding their Classification and Assignment Board, which makes recommendations to the Brig OIC. We requested the OIC to consider the issues you presented in his determination of PFC Manning's status. We should find out by COB tomorrow on whether his status is going to change." *Id.*

70. Of course, PFC Manning was not taken off MAX or POI status. And it is clear that CPT Fein and the Government did not advocate for the rights of PFC Manning during this period despite repeated protestations from the Defense that PFC Manning was being subjected to illegal pretrial punishment. In late November 2010, just prior to the emails chronicled above, someone from the Government (i.e. the prosecution team) contacted the Brig and said the following:

Defense has made a request that PFC Manning's status be reduced from POI to some other status where he is able to have more time outside or workout in his cell. My understanding is that his status determination is made based upon a list of factors including his charges, mental health and behavior. Since the Defense has made this request to lower his status *it is something that we have to at least address*. Is there a lesser level of POI that PFC Manning could be moved to. If the recommendation of the Brig personnel is to have him remain on POI that is fine, we just need to have it addressed to the Defense counsel. (emphasis added).

See Attachment 35.

71. Thus, it appears that the Government did not actually try to have PFC Manning removed from POI status ("If the recommendation of the Brig personnel is to have him remain on POI that is fine"), but simply made inquiries of the Brig to "at least address" the concerns raised by the Defense. *Id.*

72. During this time, the Government also requested copies of sunshine logs maintained by the Brig:

The defense counsel is concerned about PFC Manning's mental and physical health in relation to his small amount of time outside. In order to combat any potential Article 13 issues I would like to get a copy of the logs that show when PFC Manning went outside and how long he stayed there. I know that he usually gets 20 minutes daily but I need to have the logs to show that.

Id. Far from trying to remedy the situation, the Government was just looking for documentation that could be used to "combat any potential Article 13 issues." *Id.*

73. All of the Defense's requests for a change in confinement conditions were met with assurances that the confinement conditions were being reviewed and would be adjusted in time. However, despite these assurances, PFC Manning remained in MAX and POI at Quantico for

over eight months. When combined with the time he spent on Suicide Risk in Kuwait, PFC Manning was in the equivalent of solitary confinement for almost eleven months.

74. On 5 January 2011, PFC Manning filed a complaint with the Quantico Brig Commander and a DD Form 510 complaint through the Brig's grievance process. *See* Attachments 10, 36. The complaint and the official grievance requested that the Brig commander remove PFC Manning from MAX and POI or provide justification for his decision to keep PFC Manning in MAX and POI. PFC Manning was not provided with any form of redress through the grievance process.

75. On 13 January 2011, PFC Manning filed a request for release from pretrial confinement under R.C.M. 305(g). *See* Attachment 11. PFC Manning cited the unduly harsh confinement conditions, the Quantico Brig commander's failure to respond to his grievance request, and the failure of the military magistrate to seriously consider other options under R.C.M. 304 to ensure PFC Manning's presence at trial. COL Carl R. Coffman Jr., the Special Court-Martial Convening Authority (SPCMCA), subsequently denied PFC Manning's request and informed PFC Manning that he would address the POI issue in a separate action. *See* Attachment 12. COL Coffman did not address the POI issue raised by PFC Manning.

76. On 19 January 2011, PFC Manning filed a request for redress under Article 138, UCMJ with the Quantico Base Commander, Col. Choike. *See* Attachment 13. The Quantico Brig Commander, CWO4 Averhart, filed a response to PFC Manning's Article 138 Complaint on 24 January 2011. *See* Attachment 15. So too did Col. Oltman. *See* Attachment 17. On 1 March 2011, Col. Choike filed a response to PFC Manning's Article 138 Complaint. *See* Attachment 18. This response was served on PFC Manning on 2 March 2011. All three determined that no relief was appropriate and denied PFC Manning's request for redress.

77. On 10 March, 2011, PFC Manning filed a Rebuttal to Col. Choike's denial of his Article 138 Complaint. *See* Attachment 14. In this, PFC Manning also raised the incident on 2 March 2011 where he was placed on Suicide Risk. CWO4 Averhart and CWO2 Barnes filed responses where they recommended denying PFC Manning's petition for redress. *See* Attachments 16, 20, 21. Col. Choike denied PFC Manning's Article 138 Complaint a second time on 8 April 2011. *See* Attachment 19. Two days prior, on 6 April 2011, Col. Choike determined that he would not consider the new matter raised by PFC Manning's Article 138 Complaint. On 10 April, PFC Manning filed a second rebuttal to Col. Choike's response and requested that he consider the new matters raised in the Article 138 Complaint. *See* Attachment 19.

78. All of these matters were forwarded to the Secretary of the Navy for his final action. On 13 June 2011, Juan García, Assistant Secretary of the Navy, took final action on the Article 138 Complaint by denying PFC Manning's request for redress. *See* Attachment 23. He stated "even if your complaint has merit, your transfer to [Fort Leavenworth] is a superseding and intervening event that has made your request for relief unavailable." *Id.*

79. On 20 April 2011, PFC Manning was transferred to the Joint Regional Correctional Facility (JRCF) at Fort Leavenworth, Kansas. After a routine indoctrination period, PFC Manning was

placed in Medium Custody with no prevention of injury restrictions. He has been held in that status for the past 15 months.

ARGUMENT

80. Article 13 provides that “no person, while being held for trial, may be subjected to punishment or penalty other than arrest or confinement upon the charges pending against him, nor shall the arrest or confinement upon the charges be any more rigorous than the circumstances required to insure his presence.” Article 13 thus prohibits both: (1) the imposition of punishment or penalty prior to trial; and (2) confinement conditions more rigorous than necessary to ensure the accused’s presence at trial. See *United States v. Crawford*, 62 M.J. 411, 414 (C.A.A.F. 2006); *United States v. King*, 61 M.J. 225, 227 (C.A.A.F. 2005); *United States v. Inong*, 58 M.J. 460, 463 (C.A.A.F. 2003); *United States v. Fricke*, 53 M.J. 149, 154 (C.A.A.F. 2000). If an accused can demonstrate an intent to punish or the imposition of unduly onerous confinement conditions, he is entitled to relief under Article 13. See *id.*

81. The first prohibition of Article 13 requires an accused to show an intent to punish. See *United States v. Huffman*, 40 M.J. 225, 227 (C.M.A. 1994). This intent can be determined by examining the intent of the detention officials, or by examining the purposes served by the conditions of confinement. See *United States v. King*, 61 M.J. 225, 227 (C.A.A.F. 2005). “Absent a showing of an expressed intent to punish on the part detention facility officials, that determination generally will turn on ‘whether an alternative purpose to which [the restriction] may rationally be connected is assignable for it, and whether it appears excessive in relation to the alternative purpose assigned [to it].’” *Bell v. Wolfish*, 441 U.S. 520, 538 (1979).

82. On the other hand, the second prong of Article 13 focuses on the conditions endured by the accused, and whether they are more rigorous than necessary to guarantee the accused’s presence at trial. See *United States v. McCarthy*, 47 M.J. 162, 165 (C.A.A.F. 1997). Conditions that are sufficient egregious may give rise to a permissible inference that an accused is being punished, or the conditions may be so excessive as to constitute punishment. *United States v. Zarbatany*, 70 M.J. 169, 174 (C.A.A.F. 2011).

83. In this case, there is a clearly expressed intention to punish PFC Manning. Col. Oltman had decided that PFC Manning would remain in MAX and POI for as long as he was at Quantico because nothing was going to happen “on his watch.” Even if there weren’t such a clearly expressed intention to punish PFC Manning, the restrictions that were placed on PFC Manning were not related (much less rationally related) to any legitimate government objective. Finally, the egregious conditions of PFC Manning’s confinement for over eight months permit the *per se* inference that PFC Manning was punished in contravention of his constitutional rights.

A. Quantico Brig Officials Intended to Punish PFC Manning

84. There is clear evidence showing that the conditions imposed on PFC Manning were motivated by factors which had nothing to do with PFC Manning’s risk of self-harm, harm to others, or potential flight risk. In particular, the Brig’s arbitrary policy to keep PFC Manning

subject to the harshest conditions possible shows an intent to punish PFC Manning. *See United States v. Crawford*, 62 M.J. 411, 416 (C.A.A.F. 2006) (“we do [not] condone arbitrary policies imposing ‘maximum custody’ upon pretrial prisoners. We will scrutinize closely any claim that maximum custody was imposed solely because of the charges rather than as a result of a reasonable evaluation of all the facts and circumstances of a case.”).

a) Col. Robert Oltman's Order That PFC Manning Would be Kept on MAX and POI Indefinitely

85. The confinement conditions imposed on PFC Manning at Quantico were motivated by a desire to punish PFC Manning for the crimes he is alleged to have committed; the media scrutiny that his case has generated; and the comments that PFC Manning made in attempting to have the restrictive confinement conditions lifted.

86. PFC Manning is alleged to have leaked hundreds of thousands of classified documents to WikiLeaks. He has been denounced as a traitor in the media. Admiral Mike Mullen, Chairman of the Joint Chiefs of Staff, indicated that PFC Manning “might already have blood on his hands.” Members of Congress have called for PFC Manning’s execution. PFC Manning has been charged with “aiding the enemy,” a charge that is closely related to treason.

87. In response to the high-profile nature of this case, and the apparent predetermination by Brig officials that PFC Manning is guilty, Col. Oltman issued a directive reminiscent of “A Few Good Men”⁷ that PFC Manning would be held under MAX and POI because nothing was going to

⁷ In an infamous scene from the movie “A Few Good Men,” Col. Jessup (played by Jack Nicholson) unapologetically boasts that he ordered a “Code Red”:

Judge Randolph: *Consider yourself in Contempt!*

Kaffee: *Colonel Jessep, did you order the Code Red?*

Judge Randolph: You *don't* have to answer that question!

Col. Jessep: I'll answer the question!

[to Kaffee]

Col. Jessep: You want answers?

Kaffee: I think I'm entitled to.

Col. Jessep: *You want answers?*

Kaffee: *I want the truth!*

Col. Jessep: *You can't handle the truth!*

[pauses]

Col. Jessep: Son, we live in a world that has walls, and those walls have to be guarded by men with guns. Who's gonna do it? You? You, Lt. Weinburg? I have a greater responsibility than you could possibly fathom. You weep for Santiago, and you curse the Marines. You have that luxury. You have the luxury of not knowing what I know. That Santiago's death, while tragic, probably saved lives. And my existence, while grotesque and incomprehensible to you, saves lives. You don't want the truth because deep down in places you don't talk about at parties, you want me on that wall, you need me on that wall. We use words like honor, code, loyalty. We use these words as the backbone of a life spent defending something. You use them as a punchline. I have neither the time nor the inclination to explain myself to a man who rises and sleeps under the blanket of the very freedom that I provide, and then questions the manner in which I provide it. I would rather you just said thank you, and went on your way. Otherwise, I suggest you pick up a weapon, and stand a post. Either way, I don't

happen "on [his] watch." When challenged by Capt. Hocter, Col. Oltman responded that "nothing's going to change. He won't be able to hurt himself and he won't be able to get away, and our way of making sure of this is that he will remain on this status indefinitely." Capt. Hocter said something to the effect of, "Sir, I am concerned because if you're going to do that, maybe you might want to call it something else, because it's not based on anything from behavioral health." In response, Col. Oltman said, "We'll do whatever we want to do. You [the Brig psychiatrists] make your recommendation and I have to make a decision based on everything else." Capt. Hocter responded, "Then don't say it's based on mental health. You can say it's MAX custody, but just don't say that we're somehow involved in this." Col. Oltman said, "That's what we're going to do."

88. The very next day, on 14 January 2011, Capt. Hocter evaluated PFC Manning and found (as he had for the previous five months) that he did not require POI restrictions. The tone of this evaluation was different than the others and he appears to reference to Col. Oltman's order from the day before. Capt. Hocter writes:

Pt [patient] continues to not be suicidal and does not require POI. Please remove him. If he requires enhanced security for other reasons, please consider writing a separate SOP.

See Attachment 2.

89. It was clear to those at the 13 January 2011 meeting that the directive from Col. Oltman was coming from "higher up." See Attachment 8 ("He indicated that Manning would remain in current status (POI) unless and until he received instructions from higher authority (unnamed). I do not recall him saying he would be kept that way until his legal process was complete, but the impression he left was not to expect any changes in the near future."); "The Security Battalion Commander intimated that he was receiving instructions from a higher authority on the matter but did not say from whom.").

90. Although the meeting took place in January of 2011, it is safe to assume that the order that PFC Manning would remain in MAX and POI had been in place since PFC Manning arrived at Quantico. This was just the first time that the Brig psychiatrists (and later, the Defense) learned what was really going on.

91. The decision early on to hold PFC Manning under these onerous conditions – with no hope for improvement – was clearly based on the desire to punish PFC Manning for the crimes that he was alleged to have committed. An official's expressed desire to punish constitutes unconstitutional punishment. See *Bell v. Wolfish*, 441 U.S. 520 (1979); See also *United States v.*

give a damn what you think you are entitled to.

Kaffee: Did you order the Code Red?

Col. Jessep: I did the job I...

Kaffee: *Did you order the Code Red?*

Col. Jessep: *You're Goddamn right I did!*

Fricke, 53 M.J. 149, 155 (C.A.A.F. 2000)(accused alleged that he was placed in solitary confinement for an extended period of time because prison officials were attempting to “break him”; court indicated that “coercing a confession is not a legitimate governmental objective.”).

92. Moreover, where a result is already pre-determined, by definition, procedural due process is denied. See *Ryan v. Ill. Dep’t of Children & Family Servs.*, 185 F.3d 751, 762 (7th Cir. 1999) (producing “evidence that the decision has already been made and any hearing would be a sham” sets forth a procedural due process claim); *Miller*, 953 F.2d 1240, 1245 (10th Cir. 1992) (holding that due process requires an impartial tribunal that has not predetermined facts); *Francis v. Coughlin*, 891 F.2d 43, 46 (2nd Cir. 1989) (“[I]t is axiomatic that a prison disciplinary hearing in which the result is arbitrarily and adversely predetermined violates [the right of due process].”).

93. In *United States ex. rel. Accardi v. Shaughnessy*, 74 S.Ct. 499 (1954), the Supreme Court found a violation of procedural due process in circumstances far less glaring than the instant case. In *Shaughnessy*, the petitioner brought a habeas action in which he attacked the validity of the denial of his application for suspension of deportation. He alleged that he was “prejudged” because prior to the immigration board’s hearing, the Attorney General published a confidential list of “unsavory characters.” *Id.* at 500. The Supreme Court found that the petitioner’s procedural due process rights were violated because the “issuance of the list and related publicity amounted to public prejudgment by the Attorney General so that fair consideration of the petitioner’s case by the Board of Immigration Appeals was made impossible.” *Id.* at 502. Notably, the Supreme Court stated, “To be sure, the petition does not allege that ‘the Attorney General ordered the Board to deny discretionary relief to the listed aliens.’ It would be naïve to expect such a heavy handed way of doing things.” *Id.* at 503. And, yet, this “heavy handed way of doing things” is exactly how Col. Oltman handled the determination of the conditions of PFC Manning’s confinement. If a not-so-subtle “hint” at the result sought constitutes a violation of due process as the Supreme Court held in *Shaughnessy*, then surely an explicit order by the Security Battalion Commander to keep PFC Manning under MAX and POI amounts to violation of PFC Manning’s constitutional rights.

94. Col. Oltman’s unlawful order that PFC Manning be maintained in MAX and POI status was made even more egregious by the fact that it was made in the presence of a JAG officer, thus giving it a legal “blessing.” That a JAG officer stood by mutely while a commander issued an order which clearly violated an accused’s constitutional rights cannot be countenanced. It is a particularly sad day when the guardians of the system are the ones failing it.

95. On 31 January 2011, just a few weeks after the meeting where Col. Oltman directed that PFC Manning would not be removed from MAX or POI because “nothing was going to happen on [his] watch,” Col. Oltman recommended that PFC Manning’s Article 138 Complaint be denied. See Attachment 17. Col. Oltman stated that CWO4 Averhart’s “classification and assignment decisions in this case have been appropriate and within applicable regulations.” *Id.* Of course, Col. Oltman thought these recommendations were “appropriate.” *Id.* After all, Col. Oltman was the one who issued the order to make those recommendations in the first place.

- b) Col. Oltman's Order Provides Context for the Repeated Recommendations of the C&A Board and the PCF Commander to Retain PFC Manning in MAX and in POI Over the Recommendations of Brig Psychiatrists

96. When viewed against the backdrop of Col. Oltman's order, the continued recommendations of the C&A Board and of CWO4 Averhart and CWO2 Barnes to retain PFC Manning on MAX and POI now make sense. *See* Attachment 6. In his Response to PFC Manning's Article 138 Complaint, Col. Choike writes:

In your case, the PCF mental health provider recommended removal of POI status near the end of August. Except for one week in December, the PCF mental health provider has consistently recommended that you be removed from POI. However, the C&A Board has consistently recommended that you remain in POI status given your intake document that you were 'always planning' suicide. It is within the direction of the PCF Commander to retain you in a POI status. I note that the PCF Commander has the inherent authority over those in his custody to maintain order and discipline and the responsibility to ensure safety and security in the PCF.

See Attachment 18.

97. The C&A Board, along with CWO4 Averhart and CWO2 Barnes, had been told what they needed to do – keep PFC Manning subjected to the most rigorous conditions possible. So no matter what the psychiatrists recommended, week-after-week, month-after-month, nothing ever changed because everyone at the Brig had their marching orders from Col. Oltman, who in turn had his marching orders from someone higher up in the chain of command. In effect, the psychiatric opinions were just “window dressing” to make it look like PFC Manning was accorded due process – when it was abundantly clear that he was not.

98. A careful look at the C&A Board reviews shows that the entire “process” was just a sham.⁸ First, the C&A Board failed to fill out the appropriate forms for a total of *five* months. *See* Attachment 6. *See also* Attachment 19 (Col. Choike acknowledging that “not each decision was documented utilizing the local generated ‘Form 4200’.”). It was only when it was clear that Quantico was being subjected to outside scrutiny that the Board thought it necessary to create a paper trail to make it appear like PFC Manning was being accorded due process. The failure to document the continued decision to maintain PFC Manning in MAX and POI is reflective of the fact that the “decision” was already predetermined. *See McClary v. Kelly*, 4 F.Supp. 2d 195, 213 (W.D.N.Y. 1998)(“Due process is not satisfied where the periodic reviews are a sham.”); *Sourbeer v. Robinson*, 791 F.2d 1094 (1101 (3d Cir. 1986)(while “the monthly review

⁸ CWO4 Averhart notes that the weekly C&A Board evaluations have “unanimously” recommended retaining PFC Manning in MAX and POI. *See* Attachment 15. If a process were actually neutral (i.e. not already predetermined), one would have expected to see *some* disagreement in the three dozen times the Board convened. The only thing that can explain the unanimity is that everyone was sold exactly how they had to vote.

procedures ... were facially adequate" the prisoner's due process rights were violated because the reviews were merely "perfunctory.").

99. Further evidence of the fact that the result was predetermined is found in the reviews from 3 January 2011 until the time that PFC Manning was transferred to the JRCF. For instance, week after week, the following boxes were generally ticked as supporting the continued decision to retain PFC Manning in MAX and on POI: low tolerance of frustration; poor home conditions or family relationships; length, or potential length, of sentence. *Id.* Notably, "poor home conditions or family relationships" and "length, or potential length, of sentence" are immutable factors. That is, there is nothing PFC Manning could ever do to change the fact that he might have had poor home conditions and was facing a lengthy sentence.

100. Further, the decision to continually check the "low tolerance of frustration" box is oftentimes in direct contravention of the mental health providers' determination that PFC Manning had "an average tolerance of frustration/stress" (note: there is no option of ticking that an inmate has a "good tolerance of frustration/stress"). For instance, on 30 December 2010, Capt. Hocter indicated that "inmate has an average tolerance of frustration/stress." See Attachment 2. In the next C&A Board review four days later, on 3 January 2011, CWO4 Averhart ticked the box indicating that PFC Manning has "low tolerance of frustration." See Attachment 6. Thus, it appears that the Brig has made the decision that despite what the doctors say, *in their personal view*, PFC Manning had a "low tolerance of frustration." Consequently, there was absolutely nothing that PFC Manning could do with respect to the factors that the Brig continually used to justify the MAX and POI status.

101. After the 18 January 2012 incident where PFC Manning had an anxiety attack, the C&A Board realized that it could tick yet another box to bolster its already predetermined conclusion – "assaultive/disruptive behavior." The C&A Board, however, didn't realize that right away. So in the 21 January 2011 review, CWO4 Averhart ticked the usual three: "low tolerance of frustration", "poor home conditions" and "length, or potential length, of sentence." See Attachment 6. By 28 January 2011, CWO2 Barnes added "assaultive/disruptive behavior" and kept it on the list for the next month. *Id.* It is unclear how PFC Manning's anxiety attack, prompted by harassment by Brig guards, can properly be regarded as either "assaultive" or "disruptive."

102. On the 28 January 2011 C&A Board review form, CWO2 Barnes checked the box that read: "A mental evaluation indicating serious neurosis or psychosis." *Id.* There was *never* any mental evaluation during this period indicating "serious neurosis or psychosis." That exact same day, 28 January 2011, COL Malone recommended removing PFC Manning from POI, indicating that "inmate does not pose a threat to himself" and "inmate does not need to be segregated from general population." See Attachment 9. In the Medical Officer's Remarks, COL Malone indicates that "[PFC Manning] requires routine outpatient follow-up." *Id.* This hardly constitutes an "evaluation indicating serious neurosis or psychosis" as CWO2 Barnes had indicated on the C&A Board review form. CWO2 Barnes also checked the same box the following week, despite a notation that psychiatrists "recommend to be placed off POI." *Id.*

Thus, it appears that the C&A Board was taking great liberties with the grounds it was using to keep PFC Manning on MAX and on POI and ticking boxes willy-nilly with no regard for whether they were actually true.

103. On 18 February 2011, the C&A Board added a box labeled "potential mental disorders." See Attachment 6. This seems to also have been made up out of whole cloth, as the psychiatric review conducted that same day stated, "Mental disorder is resolved" and the recommendation was that PFC Manning "does not need to be segregated from general population due to a treatable mental disorder." See Attachment 2. How could the Brig use "potential mental disorders" to justify PFC Manning's continued classification decision when Brig psychiatrists came to the directly opposite conclusion (i.e. that any "mental disorder is resolved")? Again, this shows the C&A Board arrogantly placing its armchair psychiatry above the opinions of qualified mental health providers.

104. In the "Remarks" section of the C&A Board reviews, the following comment appears in some variation in *every entry*, oftentimes verbatim:

SND has previous demonstrated suicidal ideations and gestures. SND was transferred from TFCF Camp Arifjan due to the lack of specialized mental health care. SND has demonstrated erratic behavior as recently as [date]. SND has a potential gender identity disorder and is pending a 706 sanity board hearing.

See Attachment 6. Apparently, the C&A Board felt it appropriate to cut-and-paste the exact same thing over and over again for four months in order to justify the determination to keep PFC Manning in MAX and POI. This cut-and-paste job does not bear the hallmarks of a neutral, considered C&A Board process.

105. Moreover, there was absolutely nothing PFC Manning could have done to change any of the cited reasons for keeping him in MAX and on POI. PFC Manning apparently had demonstrated suicidal ideations when held in Kuwait; he was pending a 706 Board; he did have a potential gender identity disorder; and Brig officials always found something they considered erratic about his behavior. After PFC Manning's anxiety attack on 18 January 2011, the following notation began to appear in subsequent C&A reports, "On 18 January, SND had an anxiety attack and began acting aggressively toward himself in the presence of the Brig OIC and Supervisor." *Id.* The notation appeared up until 3 March 2011. *Id.* Again, there was nothing PFC Manning could do about any of these notations that continued to form the basis to hold him in the functional equivalent of solitary confinement.

106. There is also a strange, but telling, annotation on 18 February 2011. In typewritten font, in the "Remarks" section, the C&A Board states, "Due to the nature of SND's charges and national security concerns, SND is potentially facing a severe sentence to confinement." Someone, in handwriting, inserted the word "alleged" between "SND's" and "charges." *Id.* What is clear is that the Brig was trying to avoid the appearance that it was punishing PFC Manning based on the

nature of the charges against him, hence the word "alleged" (even though it did not fit into the sentence).

107. By the end of PFC Manning's time at Quantico, the C&A reviews reflect the fact that PFC Manning had withdrawn from the C&A process and was being guarded with staff. That, in turn, was used against him as a basis upon which to continue his POI and MAX status. On 18 March 2011 (after PFC Manning was subjected to additional restrictions owing to his comment about his underwear), the C&A Board noted "SND's demeanor has become secluded [sic] from the majority of the Brig staff and previous visitors." *Id.* It also noted "SND has recently begun to isolate himself, showing limited interest in conversation with staff or his counselor ..." *Id.* On 25 March 2011, there is the exact same entry: "SND has recently begun to isolate himself, showing limited interest in conversation with staff or his counselor ..." *Id.* On 1 April, the C&A Board repeats once again, "SND continues to isolate himself, showing limited interest in conversation with staff or his counselor ..." *Id.* On 8 April, not surprisingly, the exact same entry appears: "SND continues to isolate himself, showing limited interest in conversation with staff or his counselor ..." *Id.*

108. Incredulously, at least two of the entries towards the end of PFC Manning's confinement at Quantico suggest that there is actually something PFC Manning could do to have the onerous conditions of his confinement removed. On 1 April 2011, CWO2 Barnes writes, "SND's mood has been somber. There is no detailed conversations as in the past. No lite contact. Lately, has not requested any special accommodations; has not been appearing in front of the C&A Board to give input to make a difference." *Id.* CWO2 Barnes actually had the audacity to suggest that if PFC Manning were to appear before the C&A Board, it would "make a difference." Based on the entries in the C&A reviews (which were, of course, done at the behest of Col. Oltman), it is clear that there was nothing PFC Manning could ever do to change the circumstances of his confinement. In fact, when PFC Manning did appear before the C&A Board on 25 February 2011, the Board wrote "SND requested to appear infront [sic] of the classification and assignment board, but had no new issues to bring to the board's attention, that were not already voiced in his previous appearances before the board." *Id.* Thus, it is clear that when PFC Manning did appear before the C&A Board, it wholly discounted what he had to say.

109. Moreover, the Board's comment that "[PFC Manning] had no new issues to bring to the board's attention that were not already voiced in his previous appearances before the board" is wholly absurd. At the time of the review in question, PFC Manning had been in the functional equivalent of solitary confinement for eight months – what "new issues" could PFC Manning have possibly raised? That is, what "new" reason could PFC Manning have provided to the Board that would have made the Board members think, "Thanks for bringing that up. Maybe we should lessen your confinement restrictions."? It is ridiculous to think that the Brig would bait PFC Manning into participating in the process (by suggesting that there was something he could do or say to change the conditions of his confinement) but then dismiss his participation in the process because he didn't say anything "new."

110. On 15 April 2011, CWO2 Barnes writes in the C&A Board notes, "SND remains guarded. Spoke to SND on 20110411 regarding being more open and engaging in communication in efforts to adjust handling but no change has been seen. SND has not spoken to me about coming off POI although I explained what he needs to do." *Id.* Again, it is unbelievable that Quantico Brig officials would suggest that there was something that "he needs to do" to get off of POI status. If eight months of repeated recommendations from Brig psychiatrists, coupled with pleas from PFC Manning, his lawyer and the community at large, did not result of a lessening of restrictions, nothing ever would. It is abundantly clear that if PFC Manning had not been transferred to the JRCF, he would still be in MAX and on POI at Quantico today, stripping naked every night, wearing a suicide smock, sleeping on suicide bedding, and covering himself with a suicide blanket.

111. It is also clear from looking at the C&A Board notes that no weight was accorded to the psychiatrists' recommendations to remove PFC Manning from POI. Sometimes, the entries would annotate a sentence or two from the psychiatrists' recommendations, but would make absolutely no effort to explain why the recommendation was overridden. For instance, on 25 February 2011, the Remarks section reads:

SND has previous demonstrated suicidal ideations and gestures. SND does not have strong family ties, and or relationships with immediate family. SND requested to appear in front [sic] of the classification and assignment board, but had no new issues to bring to the board's attention, that were not already voiced in his previous appearances before the board. SND was evaluated by Col Malone on 20110225. Col Malone annotated the SND's behavior and thought content is normal and his thinking process is clear. Col Malone annotated that SND does not need to be segregated from general population due to a treatable mental disorder and that SND would only need routine examinations in the future. Col Malone stated that SND remains in early remission of an anxiety disorder. Col Malone is also tapering SND off of his prescribed medications. Due to the nature of SND's alleged charges and national security concerns, SND is potentially facing a severe sentence to confinement.

Id. The "Remarks" section is a complete non-sequitur, with a bunch of random facts and no justification for the decision to retain PFC Manning in POI and MAX. The Brig makes no attempt to explain why the opinion of COL Malone is outright ignored.

112. The C&A Board reviews are not the only evidence that the psychiatrists' opinions meant nothing to the Brig given the order by Col. Oltman that PFC Manning would not be removed from MAX and POI. In PFC Manning's conversation with MSGT Papakie following the first incident where PFC Manning was placed on Suicide Risk, it is obvious that Brig officials would never be swayed by the opinions of pesky mental health providers. The conversation between the two went as follows, with MSGT Papakie speaking in a loud and booming voice:

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PFC Manning: Why was I on, why was I on prevention of status for almost 6 months?

MSGT Papakie: [chuckles to himself] I know this is no secret to you ... I have plenty of documentation. Plenty of documentation based on things that you've said, things that you've done. Actions – I have to make sure, we have to make sure, that you're taken care of.

PFC Manning: Yes, MSGT.

MSGT Papakie: Things that you've said and things that you've done don't steer us on the side of "ok, well, he can just be a normal detainee." They make us stay on the side of caution.

PFC Manning: But what about recommendations by the psychiatrist to remove me off the status?

MSGT Papakie: Who's here every day? Who's here every day? We are. Who sees you every day? That's all he is, is a recommendation. We have, by law, rules and regulations set forth to make sure from a jail standpoint that Bradley Manning does not hurt himself. Maybe from a psychiatric standpoint, the recommendation he's given – I get it, I got it, understand, OK? But he's not the only decision maker. A mental health specialist is not the only decision that gets made.

See Attachment 25. MSGT Papakie also repeated on 2 March 2011 that there was nothing PFC Manning could ever do to remove himself from POI, despite the recommendations of mental health providers.

113. Col. Choike also discounted the medical health providers' recommendations. He stated that POI status is assigned to those "prisoners who have given an indication that they intend or are contemplating harming themselves. This status is not linked to a medical officer's approval." See Attachment 18. He also stated, "A mental health provider does not need to authorize administrative segregation to prevent self-injury provided the segregation is not being done to circumvent a medical professional's opinion that suicide risk is not necessary."⁹ See Attachment 19.

114. It is clear from the C&A Board notes, Col. Choike's statements, and MSGT Papakie's comments that the repeated recommendations of the psychiatrists meant *absolutely nothing* to Quantico Brig officials. After all, they all knew what had to be done – follow Col. Oltman's order and maintain the status quo at all costs.

⁹ Col. Choike deliberately avoids the million dollar question: If you are going to ignore the repeated recommendations of psychiatrists for nine months, why bother having their input at all?

115. Capt. Moore, the psychiatrist who was originally a Brig psychiatrist and later appointed to the Defense team, expressed extreme frustration about the "bizarre" circumstances at Quantico:

The way that they're treating this is so ... it's just bizarre all the way around. I'm just surprised that they would become so intrusive because I'd be concerned about what that looks like later on. And they've not seemed to have any qualms at all about reaching down so heavy handed. And when I've asked ... and again, there's no documentation – I just have people, either the guards or the corps man or anyone else telling me, "Why in the world is this going on?"

...

And when I tried to talk to Capt. Lewis, she basically said, "All I know is that I don't want to be involved in this!" And she just came back from working with Guantanamo Bay, and so she has a lot of her concerns about, "What are you guys doing with this? How is this consultant helping you with Manning? I mean, what are they doing?" And I don't know either. It's not an interrogation, I don't think. He's not been adjudicated, so there's a lot of risk to putting too many services out there when somebody is in this pretrial situation. I don't know. I don't know. It's bizarre. I look at it like if there's a child sex abuse person who has an accusation – you don't now bring in some psychologist or something to figure out how we're going to manage this person. Because you don't know. They're supposed to be assumed innocent. What you're supposed to be doing is protecting where they're not incriminating themselves. So, I don't know. It's been a bizarre thing ... I've never seen anything like it.

...

[PFC Manning] comes from such a chaotic, neglected background to begin with. In some ways, it's just the latest form of what he's had to endure. It's just sad. It seems like all the protections you would ever have for somebody that's accused – he's not even convicted of anything. He doesn't have any rights at all. It's just ... I don't know. I try to get the emotions out of it because it's so frustrating to me.

Oral Statement by Capt. Moore to Mr. Coombs.

116. Those "bizarre" circumstances that Capt. Moore refers to – circumstances that the Defense submits clearly amount to pretrial punishment – can in fact be understood when placed against the backdrop of somebody deciding very early on that PFC Manning would never be removed from MAX and POI so long as he was at Quantico.

c) The Entire Article 138 Process Was Tainted By Col. Oltman's Order

117. It is clear that CWO4 Averhart was at the meeting where Col. Oltman issued his order to keep PFC Manning on MAX and on POI indefinitely. Accordingly, CWO4 Averhart's justification of his actions and decision to retain PFC Manning in these conditions must be viewed in light of the fact that he was ordered to do so. In short, CWO4 Averhart's submissions in Attachment 15 and 16 are tainted by his role in effectuating Col. Oltman's order.

118. CWO4 Averhart paints a picture where he balanced competing interests and, using his discretion as the Brig OIC, determined that MAX and POI was the appropriate classification for PFC Manning. He states that "at all times, my decisions have been guided by recommendations from the Brig staff, the C&A Board, and mental health providers and also through interactions with PFC Manning." See Attachment 15. This could not be further from the truth. CWO4 Averhart's decisions were based on marching orders from Col. Oltman that PFC Manning would be held in MAX and POI indefinitely.

119. Because CWO4 Averhart's responses to PFC Manning's Article 138 Complaint were relied on by Col. Choike in denying redress, the whole process was corrupted from the start. PFC Manning thus never stood a chance of getting relief from the conditions of confinement at Quantico because those with the keys to relieving him of these conditions were part of the process that created those conditions to begin with.

d) The Incident on 18 January 2011 was Retribution for the Protest Outside Quantico the Previous Day

120. The conversation between MSGT Papakie and PFC Manning, discussed above, stemmed from the incident on 18 January 2011 where CWO4 Averhart decided to put PFC Manning on Suicide Risk status after PFC Manning had an anxiety attack at recreation call. The Defense submits that Brig guards provoked the anxiety attack because they were angry about a protest that took place the day before outside the gates of Quantico that was designed to bring attention to the conditions of PFC Manning's confinement. On a video filmed by one of the protestors, Quantico guards can be heard saying, "Quit asking questions! Quit asking questions!" and "You're not helping out, man, you're not helping out."¹⁰

121. On 18 January 2011, Brig guards were agitated and confrontational with PFC Manning. Instead of the usual two to three guards, there were four guards assigned to PFC Manning. They immediately began issuing conflicting orders, and were insistent that PFC Manning use the expression "aye, sir" rather than "yes, sir." The harassment continued when the guards escorted PFC Manning into the recreation hall. Due to the belligerence of the guards and being yelled at, PFC Manning began to feel faint and dizzy. He took a step away from the guards, as they got ready to restrain him. PFC Manning immediately put his hands in the air and said, "I'm not doing anything, I am just trying to follow your orders." In GM2 Webb's account of the events,

¹⁰ See <http://www.youtube.com/watch?v=x4eNzokgRIw>.

he states that after the incident, and while still at recreation call, "[PFC Manning] stated he didn't understand why he was being treated different and that it seemed that all the guards were anxious and it was making him anxious." See Attachment 24. Not surprisingly, Brig guards reported the incident that they, themselves, had created. See Attachment 3, SECNAVINST 1640.9C, Section 4401(3)(warning that "arbitrary actions [by Brig officials] may precipitate a disturbance.").

122. Later that day, about 30 minutes after he had been returned to his cell, the PFC Commander, CWO4 Averhart, visited PFC Manning in his cell. When PFC Manning tried to explain what happened earlier that day during the recreation call and expressed continued frustration over the conditions of his confinement, CWO4 Averhart stopped PFC Manning and said, "I am the commander" and "No one will tell me what to do." He also stated to PFC Manning that he was, for all practical purposes "God." PFC Manning responded by saying that CWO4 Averhart still had to follow Brig procedures and that everyone has a boss they have to answer to. When PFC Manning made these comments, CWO4 Averhart placed PFC Manning on Suicide Risk status.¹¹

123. The facts permit the logical inference that PFC Manning's harassment at the hands of the guards on 18 January 2011 was in response to the protests outside Quantico the previous day. When the guards' harassment resulted in PFC Manning being overcome with anxiety, CWO4 Averhart used this as a pre-textual justification for placing PFC Manning on Suicide Risk. Moreover, the timing of the Suicide Risk order (i.e. after PFC Manning had made comments challenging CWO4 Averhart's authority) strongly suggests that the Suicide Risk designation was retributive in nature. Two separate Brig psychiatrists expressly disapproved of the Suicide Risk designation by CWO4 Averhart. Under the Navy's own rules, "When prisoners are no longer considered to be suicide risks by a medical officer, they shall be returned to appropriate quarters." PFC Manning was not removed from Suicide Risk until 20 January 2011 in violation of Navy Regulations. See Attachment 3; See also Attachment 22 ("It warrants mentioning, however, that on two occasions, 6 August 2010 and 18 January 2011, a medical officer determined that suicide risk status was no longer warranted and the brig staff did not immediately take PFC Manning off suicide risk status. ... Paragraph 4205.5b of reference (a) states "When prisoners are no longer considered to be suicide risks by a medical officer, they shall be returned to appropriate quarters," in these cases, once the medical officer's evaluation was provided to the brig staff, steps should have been taken to immediately remove him from suicide risk, to a status below that.").

124. Where Brig officials fail to follow their own rules, this provides evidence of an intent to punish. See *U.S. v. Washington*, 42 M.J. 547, 562 (A. F. Ct. Crim. App. 1995) ("if orders or other action independently violate law or regulation, that may be a reason to infer a punitive intent or reject an asserted nonpunitive objective."). The circumstances surrounding this incident lead to a singular conclusion: that PFC Manning was punished for a protest beyond his control and for

¹¹ CWO4 Averhart denies that this conversation took place. As evidence that the conversation did not take place, he states, "had he spoken to me in that manner, I would have made a discipline report on him for insubordination and staff harassment." See Attachment 14. It is ironic that CWO4 Averhart admits that had PFC Manning insisted that CWO4 Averhart follow Brig rules, the result would have been a disciplinary infraction.

insisting that Brig officials follow their own procedures. *See Magluta v. Samples*, 375 F. 3d 1269, 1274 (11th Cir. 2004)(vacating the judgment of the district court where the court failed to take into account plaintiff's allegations that the more the plaintiff complained to prison and jail officials about his treatment, the more he was treated in a severe manner).

e) The 2 March 2011 Decision to Strip PFC Manning of His Clothing Was Retaliation for PFC Manning's Questioning of the Conditions of His Confinement

125. Further evidence of retaliatory punishment is found in the 2 March 2011 decision to strip PFC Manning of all his clothing. When PFC Manning was informed that his Article 138 Complaint had been denied, he asked Brig guards what he could do to improve his confinement conditions. When the Brig Operations Supervisor, MSGT Papakie, responded that there was nothing that PFC Manning could do to change the circumstances of his confinement, PFC Manning became upset and frustrated. PFC Manning stated that he was not going to kill himself, and pointed out how ludicrous the whole situation was by stating that if he wanted to kill himself, he could do so with the elastic band of his underwear or his flip-flops. Brig officials used PFC Manning's sarcastic comment as a justification to further worsen the conditions of his confinement. The only logical conclusion to be drawn from the facts is that Brig officials intended to punish PFC Manning for speaking out about the absurdity of the situation. This is particularly so given that Brig mental health officials expressly indicated that PFC Manning's comments were not indicative of an intention to cause self-harm. Rather they were part of the process of PFC Manning's "intellectualization" of the extremely rigorous conditions of his confinement. *See Attachments 2, 9.*

126. Moreover, the degradation and humiliation to which PFC Manning was subjected on the mornings of 3 March 2011 through 7 March 2011 by being forced to stand naked at attention also shows an intent by the Brig to punish PFC Manning for the comments he made on 2 March 2011. Marine spokesperson First Lt. Brian Villiard explained that "Private Manning will also be required to stand outside his cell naked during a morning inspection, after which his clothing will be returned to him." His justification for not allowing PFC Manning to have his clothes for morning inspection was that "detainees are awakened each morning and immediately come out of their cells. Private Manning cannot be given his underwear back before then ... because that would require waking him up ahead of time." *See* <http://www.nytimes.com/2011/03/05/world/05manning.html>. So the official U.S. Government position is that it is better to force a pretrial detainee to stand naked at attention than wake him up a few minutes earlier to give him back his clothing?

127. There is no conceivable legitimate justification for requiring a detainee to stand naked at attention. Former Secretary of State Spokesperson, P.J. Crowley, who was fired for calling PFC Manning's treatment at Quantico "ridiculous, counterproductive and stupid," spoke specifically about PFC Manning's forced nudity at the hands of Quantico officials. He stated:

Based on 30 years of government experience, if you have to explain why a guy is standing naked in the middle of a jail cell, you have a policy in need of urgent

review. The Pentagon was quick to point out that no women were present when he did so, which is completely beside the point.

The issue is a loss of dignity, not modesty.

Our strategic narrative connects our policies to our interests, values and aspirations. While what we do, day in and day out, is broadly consistent with the universal principles we espouse, individual actions can become disconnected. Every once in a while, even a top-notch symphony strikes a discordant note. So it is in this instance.

The Pentagon has said that it is playing the Manning case by the book. The book tells us what actions we can take, but not always what we *should* do. Actions can be legal and still not smart. With the Manning case unfolding in a fishbowl-like environment, going strictly by the book is not good enough. Private Manning's overly restrictive and even petty treatment undermines what is otherwise a strong legal and ethical position.

When the United States leads by example, we are not trying to win a popularity contest. Rather, we are pursuing our long-term strategic interest. The United States cannot expect others to meet international standards if we are seen as falling short. Differences become strategic when magnified through the lens of today's relentless 24/7 global media environment.

So, when I was asked about the "elephant in the room," I said the treatment of Private Manning, while well-intentioned, was "ridiculous" and "counterproductive" and, yes, "stupid".

I stand by what I said. The United States should set the global standard for treatment of its citizens – and then exceed it. It is what the world expects of us. It is what we should expect of ourselves.

See <http://www.guardian.co.uk/commentisfree/cifamerica/2011/mar/29/bradley-manning-wikileaks>.

128. It is well established that forced nudity is a classic humiliation technique. The only permissible inference is that the Brig intended to punish PFC Manning by subjecting him to humiliating treatment because PFC Manning correctly pointed out the absurdity of his POI status. Brig officials further added insult to injury when they stated publicly that it would be "inappropriate" to discuss the decision to strip PFC Manning and stand naked at attention "because to discuss the details would be a violation of [PFC Manning's] privacy." See <http://www.nytimes.com/2011/03/05/world/05manning.html>. Again, the Government's position is that *speaking about* PFC Manning's forced nudity is the action that violates PFC Manning's privacy? Really? How about the forced nudity itself?

129. Federal courts have found constitutional violations of an accused's constitutional rights in circumstances far less invasive than these. In *Demery v. Arpaio*, 378 F.3d 1020, 1029 (9th Cir.

2004), pretrial detainees challenged the practice of prison staff using webcams to stream live images of pretrial detainees on the internet. The Ninth Circuit Court of Appeals indicated that "having every moment of one's daily activities exposed to general and world-wide scrutiny would anyone uncomfortable ... [The practice] constitutes a level of humiliation that almost anyone would regard as profoundly undesirable and strive to avoid." *Id.* at 1030-31. Certainly, being required to stand naked at attention for several minutes in full view of guards who happened to be in the vicinity is at least as humiliating as having one's clothed image captured by a webcam. To borrow language from *Demery*, the additional impact on PFC Manning of being forced to stand naked in full view of Brig guards is "greater by several orders of magnitude than the intrusion inherent in incarceration." *Id.* at 1030. The exploitation of PFC Manning in this manner can be seen as nothing short of retributive. *Id.* at 1030-31 (noting that retribution is not a legitimate government objective than can justify adverse conditions of detention for pretrial detainees); *See also* 16C C.J.S. Constitutional Law §1549 ("What might otherwise be a lawful detention becomes an unconstitutional restriction when prison conditions become so dehumanizing as to constitute an additional hardship beyond the need for custody in violation of the detainees' due process rights).

130. Military courts have also found unlawful pretrial punishment in circumstances where the conduct at issue was designed to humiliate an accused. In *United States v. Combs*, 47 M.J. 330, 332 (C.A.A.F. 1997), the Court of Appeal for the Armed Forces emphasized that:

the courts will not tolerate egregious, intentional misconduct by command where there is no evidence of a legitimate, non-punitive objective for the conduct complained of, the apparent singling out of an accused for personal humiliation, and restrictions on liberty so oppressive as to be more consistent with the status of prisoner.

Similarly, in *United States v. Singleton*, 59 M.J. 618, 625 (Army Ct. Crim. App. 2003), the Army Court of Criminal Appeals stated, "[w]hen commanders and superiors publicly denounce, degrade, or humiliate an accused prior to trial, [this] may constitute unlawful pretrial punishment warranting confinement credit." In *United States v. Stringer*, 55 M.J. 92, 94 (C.A.A.F. 2001), the Court of Appeals for the Armed Forces indicated that "[p]retrial punishment includes public denunciation and degradation." In that case, the accused (who was pending administrative discharge) was ordered to the front of his unit formation while the detachment commander read the charges against him and read the accused his rights in a loud voice. The military judge, in awarding sentencing credit, indicated that "[t]he actions that occurred in this case are inexcusable, reprehensible, and cannot be condoned by any court." *Id.* at 93. *See also United States v. Villamil-Perez*, 32 M.J. 341, 342-43 (C.M.A. 1991)(supervising officer's posting on workplace bulletin board of a serious incident report, which included Specialist Perez's alleged drug offense and a prior letter of reprimand, was prohibited by Article 13); *United States v. Stamper*, 39 M.J. 1097, 1100 (A.C.M.R. 1994)(finding company commander's remarks to accused in front of others identifying him as a criminal suspect with a propensity to steal constituted pretrial punishment); *United States v. Latta*, 34 M.J. 596, 597 (A.C.M.R. 1992)(granting Article 13 relief where first sergeant sarcastically referred to accused as his

"favorite AWOL case" before unit formation); *United States v. Singleton*, 59 M.J. 618, 625 (Army Ct. Crim. App. 2003)(awarding confinement credit for unlawful pretrial punishment where guards or other persons in authority called the accused, an infantry sergeant, "private"); *United States v. Turner*, 2009 WL 4917899, *2 (N-M. Ct. Crim. App.)(finding illegal pretrial punishment where the circumstances of the accused's appearance in irons before his shipmates could cause court to question whether accused suffered a loss of the presumption of innocence before potential court-martial members).

131. Surely if deliberately calling someone by the wrong rank or discussing the charges against the accused in front of others constitutes humiliating or degrading treatment which military courts will not countenance, so too does requiring an accused to stand naked at attention in full view of others. The fact that this action was later "justified" on the basis that it would have been too difficult to wake PFC Manning up earlier to give him back his clothes and that officials refused to discuss the forced nudity any further because to do so would "violate PFC Manning's privacy" is further illustrative of the general level of absurdity at the Quantico Brig.

f) The Evidence Shows that Quantico Simply Wanted to Protect Itself at the Expense of PFC Manning

132. The evidence further bears out the conclusion that Quantico Brig officials maintained PFC Manning in MAX and on POI for nine months in an effort to protect *themselves* professionally and institutionally at the expense of PFC Manning. On 31 January 2010, a pretrial detainee awaiting court martial at Quantico committed suicide; the detainee was not in MAX or POI.¹² In an effort to ensure that no other prisoner would die "on their watch" (to borrow an expression from Col. Oltman), the Brig simply decided that it would not risk the embarrassment of another suicide and thus placed PFC Manning in MAX and POI with no hope for re-classification.

133. Given the high-profile nature of PFC Manning's case, the Brig simply refused to take any chance (even if infinitesimally small) that it would be publicly embarrassed once again. Indeed, Capt. Hocter references this in his affidavit where he states:

The Marine Corps, including Quantico, has had a miserable time with the problem of suicide recently. I am certain, from their point of view, the best way to avoid a tragedy is to watch a situation very closely and take action quickly. It has been difficult to help them see that good intentions can have unintended consequences (e.g., making the detainee more anxious and causing occasional agitation).

See Attachment 7. In fact, the concern about embarrassment is so real at the Quantico Brig that a special rule was implemented to deal with it. See Attachment 3, SECNAVINST 1640.9C, Section 4401(4)("Serious incidents/alleged incidents that could result in embarrassment to the naval service or focus public attention on the confinement facility in question shall be reported to NAVPERSCOM (PERS-68) or CMC (PSL Corrections) per article 8112 of this manual."). A

¹² See http://www.marinecorpstimes.com/news/2010/02/marine_quantico_brig_death_020410w/.

desire to protect one's professional reputation and avoid public embarrassment is not a legitimate non-punitive purpose justifying the imposition of restrictive confinement conditions.

134. Further, evidence shows that certain Brig officials made decisions regarding PFC Manning's confinement either "because they could" or in order to further their own professional self-interest. CWO4 Averhart's decision to place PFC Manning under Suicide Risk came right after he told PFC Manning that he was, for all practical purposes "God" and that consequently, he could make any decision he wanted. CWO2 Barnes is understood to have indicated that she would not change PFC Manning's confinement conditions because it was not worth the risk to her career. Both of these officials' decisions were arbitrary, capricious, and reflected a desire to protect their self-interest at the expense of PFC Manning. Since the decisions were made for non-legitimate purposes, they constitute punishment in contravention of PFC Manning's Article 13 rights.

g) Quantico Brig Officials Were Grasping At Straws To Use Anything PFC Manning Did and Said (or Didn't Do or Didn't Say) Against Him

135. Further evidence of intent to punish PFC Manning is found in the Brig's practice of trying to find *anything* about PFC Manning's words, conduct and demeanor that could be used against him. This is clearly evidenced in the conversation between PFC Manning and GYSGT Blenis that took place after PFC Manning had an anxiety attack at recreation call on 18 January 2011:

PFC Manning: I got dizzy ...

GYSGT Blenis: Wasn't dehydration?

PFC Manning: No, I was anxious because I didn't know why the guards were so edgy. ... They raised their voice ... And I didn't ... I was getting anxious because they were getting anxious. So I was trying to figure out what was the cause of them getting anxious. It seemed to me that they were looking for something wrong...

GYSGT Blenis: Something wrong as in a rules violation, or something wrong as in ...

PFC Manning: Yes.

GYSGT Blenis: Rules violation?

PFC Manning: Yes, sir. Because I've been here for a long time, so everything becomes automatic. So I don't know if I say something and they respond. I don't know what happened. I've been in, inside so long - I don't remember the last time I was outside.

...

[Portions of the rest of the dialogue between GYSGT Blenis and PFC Manning are inaudible]

...

PFC Manning: Ok, yes, I started, I got in here and it was normal. And then I started reading my book. And then, I want to say it was MSGT [inaudible] that was the first to show up. And then he came in and was asking me all these questions. I was, ah, trying to figure out how to word the answers without causing any more anxiety. I was trying to figure out ways of not sounding, or not being construed as ... ways that things weren't going to be construed so that ... just trying to figure out ways in which I could tactfully say what I was trying to say without violating any rules and regulation or raise any concern about ...

GYSGT Blenis: Concern's already raised... [inaudible]

PFC Manning: Yes, but I'm trying not, I'm trying, I'm trying to avoid the concern, and it's actually causing the concern. I mean, cause, I'm getting ... every day that passes by, I'm getting increasingly frustrated, I'm not going to lie. Because I'm trying to do everything that I can *not to be* a concern, therefore I appear as though I am causing more concern. Or I... Or it seems that I'm causing more concern or everybody's looking for something to cause concern. So that's what frustrates me. ... Trying to work out the most politically correct way of ...

...

PFC Manning: No, no. The situation that happened today was more of ... you know, I'm lucid and aware and just trying to figure ... It's just a question of trying not to appear like I was in Kuwait. Because that's my main concern every day, is how do I get off of POI status? How do I get off of POI status? When will I be taken off of POI status? What is being used to justify the precautions? You know ... What concerns, you know, what am I doing that's concerning [inaudible]? So I'm constantly trying to figure out, run through all of those things. And trying to make sure I'm not doing anything...

...

PFC Manning: Yes, a little. I feel like the facility, honestly, is looking for reasons to keep me on POI.

GYSGT Blenis: Inaudible. I can tell you 'no'...

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PFC Manning: I mean, at least not at the staff level, I'm thinking the CO – me, myself, personally.

GYSGT Blenis: Inaudible ... From a logistical standpoint, it's a burden on us. ...

PFC Manning: Yes, MSGT.

GYSGT Blenis: Nobody finds that as a joy. It's not a punitive thing, I understand why someone would see it as a punitive thing because restrictions placed [inaudible] ... I can tell you that ... since you have been here ... I wish I had a hundred Mannings ...

PFC Manning: And that's what... And that's where I don't understand why the continuation of the policy and restrictions beyond the time recommended by you and the psychiatrist. I mean the psychiatrist, is saying. I mean, I've got my own forensic psychiatrist that's saying now that the POI status is actually doing psychiatric harm and not, you know, and it's actually, you know, increasing my chances, rather than decreasing...

GYSGT Blenis: Did you feel like that two weeks ago?

PFC Manning: What's that?

GYSGT Blenis: Did you feel like that two weeks ago?

PFC Manning: Yes GYSGT.

GYSGT Blenis: Uh, two weeks ago, I asked you, like, how you were feeling and you said you were fine, do you remember that?

PFC Manning: Yes, and I still feel fine. I mean, I feel, I feel fine, but at the same time, I've been putting in, I've been putting in...

See Attachment 25.

136. The conversation clearly shows that PFC is struggling to convey his thought to GYSGT Blenis without "getting in trouble."¹³ PFC Manning is desperately trying to find the right words to express his frustration with his continued classification without raising "more concern" in the minds of the Brig officials.

137. The end of the videotaped conversation is particularly telling. PFC Manning tries to express the common sense observation of his psychiatrist that the POI status may be causing him

¹³ This is especially apparent if one watches the video.

psychological harm. PFC Manning says, "I mean, I've got my own forensic psychiatrist that's now saying the POI status is actually doing psychiatric harm and not, you know, and is actually, you know, increasing my chances, rather than decreasing..." *Id.* Although the video is inaudible in parts, it seems like GYSGT Blenis latches on to that particular comment to raise the red flag. That is, PFC Manning just said that POI might be causing psychological harm and might "increase[e] [his] chances, rather than decrease[] [his chances]." *Id.* What more proof do we need that POI is, in fact, justified? GYSGT Blenis then prods PFC Manning, seeking to get a damning admission from him: "Two weeks ago, I asked you, like, how you were feeling and you said you were fine, do you remember that?" *Id.* PFC Manning does not take the bait after he realizes where GYSGT Blenis is going. He says, "Yes, and I still feel fine. I mean, yes, I feel fine. Yes, but at the same time, I've been putting in..." *Id.* As is abundantly clear, PFC Manning is in an absolute "no win" situation. If he points out that POI might be causing additional psychological harm (as indicated by Brig doctors), the Brig officials will use that against him to continue to justify the conclusion that he is at risk of self-harm.

138. On 21 January 2011, PFC Manning appeared before the C&A Board and was asked about the statement on his intake questionnaire regarding suicide that he was "always planning but never acting." CWO2 Barnes describes the event as follows:

[PFC Manning] told the Board that this statement may have been false. This then raised the obvious concern of whether he was sincere in his statements that he did not currently intend to harm himself. A member of the Board asked how they could trust any of the statements given his admission that he may have made a false statement about his suicidal thoughts at intake into the PCF. PFC Manning was also asked if it was fair to assume that the statement to the Board that he did not intend to harm himself could be false and he replied "yes." This caused great concern among the Board members given their responsibility to ensure PFC Manning's safety.

See Attachment 21.

139. It is clear to any reasonable person what happened at this meeting. PFC Manning was trying desperately to get off of POI status after so many months. He then backtracked on the statement that he had made in the intake questionnaire in the hopes that the confinement facility would see reason and remove him from POI. The C&A Board then used PFC Manning's statement against him in a classic "gotcha" moment: *Wait a second, if you were lying then about wanting to commit suicide, couldn't you be lying now about not wanting to commit suicide?* There is actually only one honest answer to this question and that is the answer that PFC Manning gave – "yes, I could be lying. *But I'm not.*" But it was too late. The C&A Board had tricked PFC Manning into giving them an answer that they could document in their paperwork to continue to justify MAX and POI. Apparently, the C&A Board saw themselves as more appropriately placed to opine on PFC Manning's risk of self-harm based on a trick question than several "06" mental health providers who continued to maintain that PFC Manning was not at risk of self-harm.

140. After this meeting, PFC Manning largely tried to avoid engaging in extensive dialogue with Brig officials. After all, anything he said or did (or didn't say or didn't do) was going to be used against him. Ironically, the fact *itself* that he had become quieter and more reserved was then used against him. In CWO2 Barnes' statement justifying why she increased the POI restrictions on PFC Manning, she states,

There was a lack of rapport and trust between PFC Manning and the PCF staff.

...

The fact that PFC Manning was not communicating with the staff as much as he had in the past ... was also a concern for me.

See Attachment 21. There is no more apt illustration of the saying, "You're damned if you do. You're damned if you don't." If PFC Manning spoke to Brig staff and participated in the C&A process,¹⁴ his words and conduct were used against him to keep him in MAX and POI. If PFC Manning didn't speak as much to Brig staff and refused to participate in the C&A process, his lack of words and his conduct were used against him to keep him in MAX and POI.

141. In short, PFC Manning was doomed from Day 1. Brig officials looked for any little thing to use against PFC Manning to continue to effectuate Col. Oltman's orders that PFC Manning would remain in MAX and on POI for the duration of his time at Quantico. This would enable them to create the paper trail that they could later use for plausible deniability. Such is abundantly clear in MSGT Papakie's response to PFC Manning's question of why he was still in POI after so many months:

MSGT Papakie: [chuckles to himself] I know this is no secret to you ... I have plenty of documentation. Plenty of documentation based on things that you've said, things that you've done. Actions – I have to make sure, we have to make sure, that you're taken care of.

See Attachment 25.

142. Quantico officials were never interested in actually evaluating whether PFC Manning belonged in MAX and on POI – if they were, they would have listened to recommendations from three separate Brig mental health providers. Instead, they were looking to chronicle every little thing that PFC Manning did or didn't do, or said or didn't say in order to provide them with the "plenty of documentation" they needed to support their continued decision to retain PFC Manning in MAX and on POI.

C. PFC Manning's Article 13 Rights Were Violated Because the Imposition of Onerous Confinement Conditions Served No Legitimate Government Objective

¹⁴ The Defense is using the term "process" loosely here since it was clear that the outcome was already predetermined.

143. There was no legitimate government objective served by placing PFC Manning in MAX and POI (collectively, the functional equivalent of solitary confinement) for 9 months and by forcing him to endure humiliating treatment. There are only three potential legitimate objectives that could be conceivably served by the imposition of more restrictive than normal confinement conditions:

- a) Preventing PFC Manning from harming himself;
- b) Preventing PFC Manning from harming others; and
- c) Ensuring PFC Manning's presence at trial.

See *United States v. Crawford*, 62 M.J. 411, 414 (C.A.A.F. 2006) (noting that legitimate government objectives are "ensuring [detainee's] presence for trial" and "the security needs of the confinement facility"); *United States v. Willenbring*, 56 M.J. 671, 679 (Army Ct. Crim. App. 2001) (legitimate and non-punitive government objectives are "to secure and safeguard the confinement facility and to insure [detainee's] presence at trial."); *Bell v. Wolfish*, 441 U.S. 520, 540 (1979) ("It is enough simply to recognize that in addition to ensuring the detainees' presence at trial, the effective management of the detention facility once the individual is confined is a valid objective that may justify imposition of conditions and restrictions of pretrial detention"). See also Attachment 3, SECNAVINST 1640.9C, Section 5101(3)(i) ("Rights are not removed from a prisoner as a punishment for a rules violation, but may be restricted, however, when there is a legitimate penological interest, such as security or safety."). The conditions of PFC Manning's confinement were not at all related (much less rationally related) to any of these objectives.

a) Preventing PFC Manning from Harming Himself

144. There was no psychiatric evidence to suggest that PFC Manning was at risk of self-harm during his time at Quantico. To the contrary, the overwhelming evidence is that PFC Manning was decidedly *not* at risk of self-harm. Brig psychiatrists had, with very few exceptions, consistently recommended for over eight months that PFC Manning be removed from POI. These recommendations were outright ignored no less than 30 times by the PCF Commander.

145. In his affidavit, Capt. Hocter references his repeated recommendations to remove PFC Manning from POI status – all of which were ignored by the Brig:

Question B. In your experience, does the Quantico Brig follow your recommendation concerning either Suicide Risk or Prevention of Injury Status?

- 1. No. They generally keep patients on precautions longer than I recommend.

Question C. Have you made any recommendation concerning PFC Bradley Manning's custody and classification status? If so, what were your recommendations?

1. ... I initially recommended observing PFC Manning on suicide precautions for the first couple of weeks after his arrival, both because of his suicidal behavior in Kuwait and because his medical record from Kuwait included a quote or a paraphrase from PFC Manning to the effect that he could be patient when it comes to suicide.

2. After a couple of weeks, it seemed reasonable to downgrade his precaution level to Prevention of Injury (POI) status. Knowing that the Brig was very concerned about his safety, and because there had been a suicide in the Brig earlier that year, I obtained the services of another forensic psychiatrist (Col. Rick Malone) to be a consultant/second opinion. He evaluated the patient and concurred that POI was appropriate. The Brig, as I best recall, waited a couple of weeks to put this recommendation into effect.

3. Subsequently, I recommended that he be removed from POI as he continued to do relatively well in the Brig (occasional mild, odd behaviors such as dancing around were noted in the log as well as possible sleep walking). Col. Malone concurred. These recommendations were not followed.

4. In the fall (I am uncertain of the date); PFC Manning became agitated after an odd incident with staff. As best as I could tell from discussing the matter with Manning and with staff, he had been performing some kind of yoga move in which he contorted his limbs in such a way that staff thought he was trying to hurt himself. They intervened and returned him to his cell. He was very upset about this (not suicidal) and so I briefly recommended he be put back on POI status as a safeguard because he was so upset. I rescinded this recommendation the following week as he had calmed.

5. Since then, I have continued to recommend that POI precautions be removed. As of the time of my leaving for Camp Lejeune to prepare for deployment, the recommendations had not been followed. CAPT Moore and Col. Malone can provide details of what occurred next.

Question D. Have your recommendations been followed by the Quantico Brig? If not, have you been given any reason for the Quantico Brig's decision not to follow your recommendations?

1. No. My understanding is that the Brig has not followed my recommendations because of great concern and worry that Manning will harm himself. I told them I thought the Max status (with every 15 minute visual checks of the detainee vice

POI with every 5 minute checks) was more than sufficient to ensure his safety, from a psychiatric perspective. The every 5 minute checks done for POI is extremely rigorous, particularly for a second tier precaution. Every 15 minute checks was common for suicide precautions in other jails and correctional facilities where I have worked.

...

See Attachment 7.

146. Capt. Hocter provided further elaboration in a subsequent affidavit:

Question A. Do you make recommendations to the Quantico Brig concerning whether a detainee is placed on either Suicide Risk or Prevention of Injury Status?

I make recommendation about suicide precautions, POI, and occasionally steps that Brig might take to better a detainee's condition or deportment (more time to exercise, give him a job, help him with the legal work on financial problem, let him talk to his wife or girlfriend more often, please make sure a chaplain sees him). The Brig takes these under advisement and sometimes follows them, usually not. In Manning's case, I requested, in addition to removal of precautions, more time to exercise. After quite some time, and numerous requests (it became almost comical), this was granted.

Question B. In your experience, does the Quantico Brig follow your recommendation concerning either Suicide Risk or Prevention of Injury Status?

The Brig frequently ignores or delays my recommendation regarding precautions, including suicide precautions. This differs from any of the previous jails, brig, or prisons in which I have worked, military or civilian. This occurred even before the suicide of a detainee in January 2010. Prior to the Manning case, this, among other issues, had made working at the Brig so frustrating that I asked to be relieved of these duties. This was not permitted. I have struggled to make the best of a situation that was not professionally pleasing. The addition of forensic psychiatry fellows to the milieu (for me to teach) has been invigorating and lifted my morale.

...

Question D. Have your recommendations been followed by the Quantico Brig? If not, have you been given any reason for the Quantico Brig's decision not to follow your recommendations?

Neither the Brig Commander nor the Security Battalion Commander gave me any reasons for maintaining the POI precautions other than his safety. The Security Battalion Commander intimated that he was receiving instructions from a higher authority on the matter but did not say from whom. I know that the higher base authorities had a frequent (sometimes weekly) meeting to discuss Manning, for which I supplied my CO with a status report – nothing that Manning had told me, mind you, but his condition and my recommendations, particularly to remove conditions I felt were unnecessary. I did not attend these meetings, mainly to protect Manning's confidentiality against inadvertent slips. On one occasion, concern was relayed to me about the odd behaviors seen in the cell mentioned in my previous affidavit. I reported that I was not worried about the sleep walking and the dancing.

I do not recall a meeting with the Base Commander (Col. Choike). The meeting I recall was with the Security BN CO, whose name I do not recall. He indicated that Manning would remain in current status (POI) unless and until he received instructions from higher authority (unnamed). I do not recall him saying he would be kept that way until his legal process was complete, but the impression he left was not to expect any changes in the near future. I cannot recall a direct quote.

See Attachment 8.

147. COL Malone also confirms that the Brig simply ignored the recommendations of mental health providers:

Question B. In your experience, does the Quantico Brig follow your recommendation concerning either Suicide Risk or Prevention of Injury Status?

1. They initiate more precautions than I would from a psychiatric perspective. Were he not in custody, at this point he would be appropriate for routine outpatient care.

Question C. Have you made any recommendation concerning PFC Bradley Manning's custody and classification status? If so, what were your recommendations?

1. No. I have stated that there is no psychiatric reason for him to be segregated from the general population, realizing that would only be one consideration.

Question D. Have your recommendations been followed by the Quantico Brig? If not, have you been given any reason for the Quantico Brig's decision not to follow your recommendations?

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1. They have expressed concerns about his demeanor with no medical personnel are there, describing him as more withdrawn and reading less.

See Attachment 9.

148. Not only did the Brig ignore the repeated recommendations to remove PFC Manning from POI, they also ignored medical opinions that POI was actually *causing* PFC Manning psychiatric harm. Capt. Hocter states in his affidavits:

I believe that (at the time I last saw him) Suicide precautions and POI were excessive and were making Manning unnecessarily anxious. This could be detrimental to his mental health. I was concerned about his physical health until they started to give him more time to exercise. Since Max status is not a psychiatric classification, I did not make a recommendation regarding it except to say that it easily (as a secondary effect of checking on him every 15 minutes) met his psychiatric safety needs at the time.

...

PFC Manning, according to his records from Kuwait, exhibited a disturbing level of mental instability, including suicidal behaviors. Thankfully, he was doing much better during his time with me. Inappropriate use of POI and other precautions can result in a loss of privacy and dignity that can worsen someone's condition. This could occur in Manning's case and lead to regression and additional suicidal behaviors.

See Attachments 7, 8. COL Malone agreed that POI restrictions could be detrimental to mental health, though noted that fortunately, PFC Manning "has been able to adapt somewhat":

It has long been known that restriction of environmental and social stimulation has a negative effect on mental functioning. Nevertheless, PFC Manning has been able to adapt somewhat and his anxiety disorder is currently in remission, significantly reducing his risk of self harm.

See Attachment 9.

149. The psychologists made it known to Brig Commander that keeping PFC Manning in POI as they were was an additional stressor and damaging from a psychological perspective. The Brig Commander did not address the mental health concerns raised by the psychologists and continued to subject PFC Manning to POI restrictions.

150. Applicable Navy confinement rules themselves explicitly recognize the deleterious effects of solitary confinement and harsh conditions of confinement: "When prisoners spend long hours

in idleness and feel harassed by unnecessary restrictions, hostility is created and the desire to escape or resist become dominant forces." See Attachment 3, SECNAVINST 1640.9C, Section 4301.5. As such, PFC Manning faced the perverse scenario that, the longer the Brig maintained the POI status, the more likely it was that his mental health would deteriorate, thus necessitating the POI status.

151. The medical literature is replete with references to the deleterious effects of solitary confinement. In his recent testimony before the Senate, Professor Haney opines that "solitary confinement places *all* of the prisoners exposed to it at grave risk of harm." (emphasis in original). He continues:

Despite the methodological limitations that come from studying human behavior in such a complex environment, most of the research has reached remarkably similar conclusions about the adverse psychological consequences of solitary confinement. Thus, we know that prisoners in solitary confinement suffer from a number of psychological and psychiatric maladies, including: significantly increased negative attitudes and affect, irritability, anger, aggression and even rage; many experience chronic insomnia, free floating anxiety, fear of impending emotional breakdowns, a loss of control, and panic attacks; many report experiencing severe and even paralyzing discomfort around other people, engage in self-imposed forms of social withdrawal, and suffer from extreme paranoia; many report hypersensitivity to external stimuli (such as noise, light, smells), as well as various kinds of cognitive dysfunction, such as an inability to concentrate or remember, and ruminations in which they fixate on trivial things intensely and over long periods of time; a sense of hopelessness and deep depression are widespread; and many prisoners report signs and symptoms of psychosis, including visual and auditory hallucinations. Many of these symptoms occur in and are reported by a large number of isolated prisoners. For example, in a systematic study I did of a representative sample of solitary confinement prisoners in California, prevalence rates for most of the above mentioned symptoms exceeded three-quarters of those interviewed.

In addition to the above clinical symptoms and syndromes, prisoners who are placed in long-term isolation often develop what I have characterized as "social pathologies," brought about because of the pathological deprivations of social contact to which they are exposed. The unprecedented totality of control in these units occurs to such an exaggerated degree that many prisoners gradually lose the ability to initiate or to control their own behavior, or to organize their personal lives. Prisoners may become uncomfortable with even small amounts of freedom because they have lost confidence in their own ability to behave in the absence of constantly enforced restrictions, a tight external structure, and the ubiquitous physical restraints. Even the prospect of returning to the comparative "freedoms" of a mainline maximum security prison (let alone the free world) fills them with anxiety.

For many prisoners, the absence of regular, normal interpersonal contact and any semblance of a meaningful social context in these isolation units creates a pervasive feeling of unreality. Because so much of our individual identity is socially constructed and maintained, the virtually complete loss of genuine forms of social contact and the absence of any routine and recurring opportunities to ground thoughts and feelings in a recognizable human context lead to an undermining of the sense of self and a disconnection of experience from meaning. Some prisoners experience a paradoxical reaction, moving from initially being starved for social contact to eventually being disoriented and even frightened by it. As they become increasingly unfamiliar and uncomfortable with social interaction, they are further alienated from others and made anxious in their presence. In extreme cases, another pattern emerges: this environment is so painful, so bizarre and impossible to make sense of, that they create their own reality—they live in a world of fantasy instead. Finally, the deprivations, restrictions, the totality of control, and the prolonged absence of any real opportunity for happiness or joy fills many prisoners with intolerable levels of frustration that, for some, turns to anger, and then even to uncontrollable and sudden outbursts of rage.

See Attachment 37. Based upon well-documented medical literature, it is clear that prolonged periods of solitary confinement causes severe psychological consequences. This extensive scientific evidence has been widely accepted by federal courts. For instance, the Seventh Circuit observed that “the record shows, what anyway seems pretty obvious, that isolating a human being from other human beings year after year or even month after month can cause substantial psychological damage, even if the isolation is not total.” *Davenport v. DeRobertis*, 844 F.2d 1310, 1313 (7th Cir. 1988). In *Davenport*, the court recognized that “there is plenty of medical and psychological literature concerning the ill effects of solitary confinement (of which segregation is a variant)” See also *Miller ex rel. Jones v. Stewart*, 231 F.3d 1248, 1252 (9th Cir. 2000) (“it is well accepted that conditions such as those present in the [super-max unit] . . . can cause psychological decompensation to the point that individuals may become incompetent”); *Comer v. Stewart*, 215 F.3d 910, 915 (9th Cir. 2000) (“we and other courts have recognized that prison conditions remarkably similar to [the super-max unit] can adversely affect a person’s mental health”); *Lee v. Coughlin*, 26 F. Supp. 2d 615, 637 (S.D.N.Y. 1998) (“[t]he effect of prolonged isolation on inmates has been repeatedly confirmed in medical and scientific studies”); *McClary v. Kelly*, 4 F. Supp. 2d 195, 208 (W.D.N.Y. 1998) (“[the notion that] prolonged isolation from social and environmental stimulation increases the risk of developing mental illness does not strike this Court as rocket science”); *Madrid v. Gomez*, 889 F. Supp. 1146, 1265 (N.D. Cal. 1995) (“many, if not most, inmates in the SHU experience some degree of psychological trauma in reaction to their extreme social isolation and the severely restricted environmental stimulation in [the Security Housing Unit]”); *Bono v. Saxbe*, 450 F. Supp. 934, 946 (E.D. Ill. 1978) (“[p]laintiffs’ uncontroverted evidence showed the debilitating mental effect on those inmates confined to the control unit”), *aff’d in part and remanded in part on other grounds*, 620 F.2d 609 (7th Cir. 1980); *Koch v. Lewis*, 216 F. Supp. 2d 994, 1001 (D. Ariz.

2001)(experts agreed that extended isolation causes "heightened psychological stressors and creates a risk for mental deterioration"); *Baraldini v. Meese*, 691 F. Supp. 432, 446-47 (D.D.C. 1988)(citing expert testimony on sensory disturbance, perceptual distortions, and other psychological effects of segregation), *rev'd on other grounds sub nom. Baraldini v. Thornburgh*, 884 F.2d 615 (D.C. Cir. 1989).

152. Thus, in ostensibly "protecting him from himself" (which the Defense submits is not what the Brig was actually doing), confinement facility officials were actually *causing* PFC Manning psychological harm.¹⁵ In other words, the Brig authorities used the pretext of safeguarding PFC Manning from his own mental instability to keep him under conditions of extreme psychological stress for nearly nine months. In this respect, the Defense requests that this Court also consider the *amicus* filing from Psychologists for Social Responsibility. See Attachment 41.

153. The Brig continually pointed to PFC Manning's Suicide Risk status in Kuwait to justify the decision to maintain PFC Manning on POI status. In his Response to PFC Manning's Article 138 Complaint, Col. Choike justified the POI status as reasonable in light of all the information "including his concern over [PFC Manning's] comment regarding 'always planning' suicide at initial intake, his actions in actually making a noose at the previous facility [and] his erratic behavior at the previous facility." See Attachment 19. All of these events occurred approximately 8 months prior to PFC Manning's filing of the Article 138 Complaint, when PFC Manning was first arrested, was in an unfamiliar environment, and did not have the support of friends, family and counsel. PFC Manning tries to explain this to GYSGT Blenis, to no avail:

GYSGT Blenis: [largely inaudible] Let's go back to today. ... The anxiety here, today. That's not the first time it's happened since you've been in confinement. As far as I know, it is the first time it's happened since you've been here ... but a similar situation ...

PFC Manning: I wasn't, in Kuwait, I had no idea what was going on generally.

¹⁵ The Defense submits that, to the extent that there might have been isolated instances of unusual behavior, it is the direct result of being locked behind bars, starved of all human contact, and watched like a zoo animal for a period of 9 months. See Attachment 40. Indeed, Brig psychiatrists were not at all concerned about some of the apparent odd behavior exhibited by PFC Manning (to the extent that it occurred). For instance, Capt. Hocter stated in his affidavits:

Subsequently, I recommended that he be removed from POI as he continued to do relatively well in the Brig (occasional mild, odd behaviors such as dancing around were noted in the log as well as possible sleep walking). Col. Malone concurred. These recommendations were not followed.
...

On one occasion, concern was relayed to me about the odd behaviors seen in the cell mentioned in my previous affidavit. I reported that I was not worried about the sleep walking and the dancing.

COL Malone also factored in the apparent odd behavior in making his weekly recommendation that PFC Manning was not at risk of self-harm. What is clear, though, is that the Brig *itself* created the circumstances which it then used to justify the conditions of confinement.

GYSGT Blenis: But, would you say it was similar situation?

PFC Manning: No, no. The situation that happened today was more of ... you know, I'm lucid and aware and just trying to figure ... It's just a question of trying not to appear like I was in Kuwait. Because that's my main concern every day, is how do I get off of POI status? How do I get off of POI status? When will I be taken off of POI status? What is being used to justify the precautions? You know ... What concerns, you know, what am I doing that's concerning [inaudible]? So I'm constantly trying to figure out, run through all of those things. And trying to make sure I'm not doing anything...

GYSGT Blenis: [inaudible] ... As time goes on, we have less of a concern, ok?

PFC Manning: Yes, GYSGT. But the restrictions were still in place. And I was ...

GYSGT Blenis: Right. And we continually... We understand it's not normal that we have someone in POI for this period of time...

PFC Manning: Yes.

GYSGT Blenis: It's not [normal] ... I guess we'll just leave it at that. So as we go on, we're going to lessen your restrictions. They're still be restrictions in place ... [inaudible] But I would have to disagree with you as far as what happened today happened in Kuwait ... anxiety attack ...

PFC Manning: No, in Kuwait, I wasn't lucid. I had [guard interrupts] It was like a dream...

GYSGT Blenis: But, they both ultimately ended up in you having an anxiety attack ... controlled fall, but ...

PFC Manning: No, I don't remember falling in Kuwait at all.

GYSGT Blenis: Well, I can tell you, that's what was reported to us ... none of us where there [refers again to PFC Manning's suicide status Kuwait] ... Us, as a facility, we have to always err on the side of caution, okay. And not just the side of caution, but over-caution. Especially when we're talking about suicide, okay? Nobody's saying you're going to kill yourself, alright? [inaudible] But we always have to be more cautious than that. But you're saying that 'nobody else is on suicide watch.' The thing is what happened in Kuwait, what happened today ...

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PFC Manning: Those are totally different. I understand, I understand, I understand, where you're getting that ... from the documentation. I mean, I quite, I know where I am. I know I am ... I know I am at Quantico base facility. I know that I'm at a brig. I mean, I'm lucid and aware of where I am. I'm not ...

See Attachment 25.

154. The concerns about Kuwait could not legitimately continue to indefinitely form the basis for PFC Manning's POI status, over the more compelling recommendations of multiple mental health providers. The justification was thus disingenuous and pre-textual in light of the clear psychiatric evidence to the contrary, and the Brig's own stated procedures for reviewing POI status. Brig officials appeared to be saying that if a detainee ever makes a comment about suicide at any point in his incarceration, the detainee is *de facto* at risk for suicide. Consequently, nothing the detainee could ever say or do subsequently would matter in the classification of the detainee.

155. Even if the Brig's concern about PFC Manning's risk for self-harm were not pre-textual (which the Defense submits that it was), such a concern was nonetheless exaggerated and grossly out-of-proportion to the risk presented. Where a restriction imposed on a detainee is "arbitrary" or "excessive" the restriction does not serve a legitimate government purpose. *See United States v. Crawford*, 62 M.J. 411, 414 (C.A.A.F. 2006)(constitutional violation is established where "conditions [are] unreasonable or arbitrary in relation to both purposes" of "ensuring ... presence for trial and the security needs of the confinement facility"). Here, the burdens placed upon PFC Manning under the guise of protecting him from self-harm were arbitrary, unreasonable and excessive, mandating a conclusion that PFC Manning's Article 13 rights have been violated.

156. The Brig's response to PFC Manning's comment about the waistband of his underwear is illustrative of the (willful) lack of logic that confinement officials brought to bear when it came to PFC Manning. Any reasonable person could see that after eight months in MAX and under POI, a detainee would become increasingly frustrated and might say something provocative. A reasonable person would see that PFC Manning was not actually planning on killing himself with the elastic band of his underwear. And yet, the Brig refused to see logic. This is true even though Brig psychiatrists had specifically opined that PFC Manning's comment about the elastic band of his underwear was part of the process of his "intellectualization" of his conditions of confinement and was in no way related to any suicidal ideations on the part of PFC Manning. *See Attachments 2, 9.* The 4 March 2011 C&A Board noted that, "[PFC Manning's] comments have raised concern that [PFC Manning] may be formulating a plan to potentially kill himself." *See Attachment 6.* If PFC Manning were truly "formulating a plan to potentially kill himself," would he tell Brig guards exactly how he was going to do it? Again, logic seems to have been checked at the gates of the Quantico confinement facility.

157. After PFC Manning made this comment, the Brig increased the special handling instructions on PFC Manning, such that there was now a requirement that he strip naked and wear a suicide smock at night. *See Attachment 26.* This requirement was arbitrary,

unreasonable and excessive in light of the perceived threat of self-harm. PFC Manning was under 24-hour surveillance, with guards never being more than a few feet away from his cell. Even if he wanted to, how could PFC Manning use his underwear to potentially commit suicide without anyone noticing? Presumably, a guard would notice PFC Manning removing his underwear and pulling at the elastic band in an effort to extract it from his underwear and then attempt to use it to kill himself. Moreover, PFC Manning was permitted to have his underwear and clothing during the day, with no apparent concern that he would harm himself during daylight hours.

158. Further, the smock itself posed a greater risk to PFC Manning in terms of being a choking hazard than PFC Manning's underwear. On one occasion, PFC Manning got trapped inside the smock. The situation is explained in an Incident Report on 13 March 2011:

Ma'am, on the above date and time while performing my duties as special quarters supervisor, I, LCPL Miller, noticed Det. Manning [REDACTED] had his head and arms inside of his POI jump suit. I then woke up SND and told him that I need to see his face and to poke his head out. While doing what I instructed him to do, SND realized he was stuck and began to roll around, saying, "I hate this stupid thing." I then told SND to calm down and stand up and try to pull the POI jump suit over his head, but his arms were still stuck. I then called for the watch supervisor, CPL Sanders, to come down to special quarters to look at the situation and get permission to open cell 191 and help SND. Upon CPL Sanders arrival, he evaluated the situation and opened cell 191 to help SND free his arms. Once SND was situated, I then told him not to put his head and arms inside his POI jump suit again, and that if he is cold to use his second POI blanket instead. The DBS was then notified and this report was written, and the incident was recorded on camera.

See Attachment 27.

159. Despite this incident and the recommendation of Brig psychiatrists, CWO2 Barnes refused to change the decision to require PFC Manning to surrender his clothing and wear a smock at night. She stated, "I have considered your complaint that the decision to remove your clothing during sleeping hours is improper. I disagree. The removal of your clothing on 2 March 2011 was done to ensure your safety and was a direct result of your comment ... regarding the waistband in your underwear which you considered to be dangerous." *See Attachment 20.* Despite all logic to the contrary, Brig officials continued to require that PFC Manning wear the smock at night, apparently out of concern that PFC Manning planned to kill himself with his underwear.

160. Further evidence of the lack of rational connection between measures adopted by the Brig and a legitimate government objective is found in the measures associated with placing PFC Manning on Suicide Risk on 18 January 2011. Col. Choike noted in his response to the Article 138 Complaint that the decision to place PFC Manning on Suicide Risk on that date necessitated

"only a few" additional special handling instructions, one of which was the removal of PFC Manning's eyeglasses.¹⁶ See Attachment 19. It is impossible to conceive of a legitimate government objective to be served in removing PFC Manning's eyeglasses, forcing him to sit for three days in his cell in essential blindness, dizzy and disoriented.

161. It is similarly impossible to rationalize any of the other restrictions imposed on PFC Manning under either his POI or MAX status. A few of the absurd restrictions are outlined below:

- a) **Constant Monitoring:** It stands to reason that asking PFC Manning every five minutes "are you okay?" would not ensure that PFC Manning was, in fact, okay. Moreover, common sense dictates that that being asked "are you okay?" thousands of times over the course of nine months would actually exacerbate a detainee's sense of frustration and cause mental anxiety.
- b) **Inability to Lay Down in His Cell or Place His Back Against the Wall:** There does not appear to be any legitimate penological reason for refusing to allow PFC Manning to lay down in his cell, particularly when he was locked in it for over 23 hours per day. How would allowing PFC Manning the ability to lay down increase his risk of self-harm? Similarly, what possible justification could there be for not allowing a detainee to lean his back against the wall, instead requiring him to sit up straight for all his waking hours?
- c) **Limitations on Reading Material:** It is unclear how allowing PFC Manning only one book or magazine in his cell at a time is related to the prevention of self-harm (especially because PFC Manning was permitted to have a copy of the Brig's rules and regulations in his cell at all times). How would having two or three books or magazines in his cell increase PFC Manning's risk of self-harm?
- d) **Restrictions on Correspondence:** For much of the time that PFC Manning was at Quantico, he was only permitted one hour of correspondence time. Again, how would permitting additional correspondence time increase PFC Manning's risk of self-harm?
- e) **Refusal to Allow PFC Manning Basic Hygiene Items:** It is impossible to understand why PFC Manning was not permitted to have toilet paper in his cell and instead was required to ask for it every time he wanted to go to the bathroom. This restriction was arbitrary, excessive and degrading.
- f) **Restrictions on Exercise:** PFC Manning was prohibited from exercising in his cell. However, he was permitted to exercise at recreation call. It is unclear what the difference between the two is, and why one does not present a risk of self-harm, while the other

¹⁶ The fact that placing PFC Manning on Suicide Risk necessitated "only a few" additional handling instructions demonstrates that there is not a significant distinction between Suicide Risk and POI status. However, the Brig was not permitted to maintain PFC Manning on Suicide Risk status because that would have required the recommendation of the Brig's mental health provider (which the Brig decidedly did not have).

does. Moreover, Capt. Hocter pleaded with the Brig to allow PFC Manning to exercise in his cell. On 2 December 2010, for instance, Capt. Hocter wrote in his psychiatric evaluation:

Pt reports good mood and no SI [suicidal ideations]. Does not require POI from a psychiatric perspective.

Please let Pt do calisthenics in his cell. Thanks.

See Attachment 2 (large writing in original).

162. In short, the conditions imposed on PFC Manning to purportedly ensure that he would not harm himself were wholly nonsensical. See, e.g. *United States v. Thompson*, 2008 WL 2259762 (A. F. Ct. Crim. App.) (“Nor are we able to see how forcing the appellant to remain on her bed, without talking, somehow increased the government’s assurance that she would be available for trial beyond that guaranteed by her general confinement”).

163. In *United States v. Palmiter*, 20 M.J. 90 (C.M.A. 1985), Chief Judge Everett found that conditions less restrictive than the ones imposed on PFC Manning were not related to a legitimate government objective. He stated:

For purposes of the motion, the Government admitted that appellant was initially placed in a single cell about 6–feet by 7–feet, with a desk, toilet, chair, and bed. He was only allowed to wear his undershorts, and to either sit at the desk or stand from 0400 hours to 2200 hours. His only reading materials were a Bible and the brig regulations. He was not allowed to write or receive letters, lie on the bed between reveille and taps, or communicate with other prisoners.

Some of these conditions are *far more onerous* than would be required to assure the detainee’s presence and so they violated Article 13. Regardless of the restrictions that might be imposed on sentenced prisoners without violating Article 55, [i]t is hard to see why a pretrial detainee should be prohibited from corresponding with persons outside the facility, such as his lawyers, family, or friends; or be required to be only in undershorts and in the daytime to sit or stand, rather than to lie in bed. No “alternative purpose” which seems reasonably related to a legitimate governmental objective “is assignable for” these conditions.

Id. at 99-100 (emphasis supplied). Chief Judge Everett also emphasized that “[i]n arriving at this conclusion, I have heeded the Supreme Court’s warning that “[s]uch considerations are peculiarly within the province and professional expertise of corrections officials, and, in the absence of substantial evidence in the record to indicate that the officials have exaggerated their response to these considerations, courts should ordinarily defer to their expert judgment in such matters.” *Id.*

164. Even if the restrictions placed upon PFC Manning were in some way related to a legitimate government objective, they were nonetheless grossly exaggerated in light of any actual evidence that PFC Manning was at risk of self-harm. For instance, for five months, PFC Manning was forced to "exercise" while his hands and feet were shackled, with a guard accompanying his every step. While this would certainly ensure that he wouldn't harm himself, others, or escape from the confinement facility, such a requirement appears wholly out-of-proportion to the risk presented. See *United States v. Contreras*, 2011 WL 2864311, *5 (N.-M. Ct. Crim. App.) ("We agree with the military judge that while it was permissible to assign the appellant cleaning responsibilities, it was impermissible to have him clean in hand and leg irons.").

165. It is clear that the numerous restrictions placed on PFC Manning owing to his classification as a MAX detainee under POI status were not related to the legitimate government objective of preventing PFC Manning from harming himself. Nor, as discussed below, were the restrictions placed on PFC Manning legitimately related to either protecting other inmates or ensuring PFC Manning's presence at trial.

b) Preventing PFC Manning from Harming Others

166. There was equally no basis to conclude that PFC Manning was a risk to others, thereby justifying his continued classification in MAX custody. The Brig notes continually indicate that PFC Manning had been an "above average" detainee. See Attachment 5. GSYGT Blenis, in his conversation with PFC Manning, indicated that he "wish[ed] he had a hundred Mannings." See Attachment 25. The Pentagon has claimed publicly that PFC Manning has been an "exemplary" detainee. PFC Manning had always been pleasant, respectful and cooperative with Brig officials and guards.¹⁷

167. PFC Manning had never exhibited any violent tendencies towards other inmates at Quantico. The Brig psychiatrists indicated that he was not a risk to others. In response to a question as to whether they had "seen or documented any behavior to suggest that he is a risk to harm others or himself, a disruptive detainee, or otherwise noncompliant with Quantico Brig rules and procedures," Capt. Hocter and COL Malone responded as follows:

¹⁷ In his 24 January 2011 submission, CWO4 Averhart states that PFC Manning had violated prisoner rules and regulations by not following instructions. He further states, "I have not imposed any disciplinary segregation, but these incidents do cause me continuing concern regarding his safety and intentions." See Attachment 15. The rules "violations" that CWO4 Averhart refers to are exceedingly minor (See Attachment 39) and do not provide a basis, under any stretch of the imagination, for a "continuing concern regarding his safety and intentions." For example, on one occasion, a Brig guard documents an incident where PFC Manning was choking on a piece of meat; after the guard dislodged it, PFC Manning indicated that he did not need medical care. On one occasion, PFC Manning declined his recreation call because his medication made him extremely tired. On yet another occasion, a Brig guard reported that after explaining to PFC Manning something dealing with the television schedule, PFC Manning indicated he was done watching TV and it could be turned off. Frankly, with some of these reports, it is not even clear what the "incident" is or why it is at all significant. Regardless, these are apparently the sorts of incidents that CWO4 Averhart refers to as somehow supporting the conclusion that he had "continuing concern" regarding PFC Manning's safety and intentions. A look at the incident reports themselves, however, completely undermines CWO4 Averhart's statement.

Capt. Hocter:

Not since I met him. Given the report from Kuwait, I had expected more difficulty.

...

Given the amount of scrutiny he received from the Brig, and the seriousness of his charges, I had expected him to have many more problems. I had initially suspected that we would see regression and perhaps some suicidal behaviors. He held up remarkably well. He was generally a well behaved detainee.

COL Malone:

I have never heard of him being disruptive, but he does make provocative comments to the staff as part of his intellectualization (e.g. 2 March 2011).

See Attachments 7-9.

168. Notably, the offenses with which PFC Manning is charged—offenses of which PFC Manning has not been convicted—do not involve violence. There was absolutely no reason to believe that the safety of other inmates would be compromised if PFC Manning were classified as a Medium Custody detainee. See *Lock v. Jenkins*, 641 F.2d 488, 494 (7th Cir. 1981)(the “state’s interest in secure confinement of [pretrial detainees] may justify confinement of particular detainees because of their *known characteristics*, ... additional severity in treatment in the absence of knowledge of their individual characteristics is clearly excessive and amounts to punishment”)(emphasis supplied). See also *United States v. Swan*, 45 M.J. 672 (N-M. Ct. Crim. App. 1996)(solitary confinement justified to protect other detainees); *United States v. Crawford*, 62 M.J. 411, 415 (C.A.A.F. 2006)(maximum custody appropriate where accused presented a “high risk of future serious misconduct including mass violence and physical harm to others”).

169. In *United States v. Singleton*, 59 M.J. 618 (Army Ct. Crim. App. 2003), the accused was held for 57 days in special quarters before he was transferred to the general confinement population. In that case, the accused had been charged with “serious, violent offenses” (rape of a minor), had failed to comply with restrictions ordered by his company commander, and had a serious drug and alcohol problem. *Id.* at 623-4. Thus, the temporary placement of the accused in special quarters for 57 days was justified. Here, PFC Manning spent approximately 265 days in solitary confinement at Quantico. He was not charged with a violent offense; he did not have any disciplinary issues; and did not have any drug or alcohol problems. If it was not necessary to keep a violent sex offender who disobeyed orders in special quarters, surely it was not necessary to keep PFC Manning in MAX custody in order to protect others.

170. It should be noted once again that PFC Manning is 5’3 in height and 115 pounds in weight. Presumably, Brig guards would have been able to easily restrain PFC Manning in the extremely unlikely event that he were to be disruptive and pose a danger to others. Moreover, the Defense would venture to guess that other pretrial detainees could “hold their own” if some sort of altercation ensued. Placing PFC Manning in shackles and locking down a Marine confinement facility every time PFC Manning was moved (e.g. to speak with his counsel on the phone; to

attend his sunshine call) was clearly excessive and arbitrary in considering whether PFC Manning's confinement conditions serve the government objective of ensuring the safety of other detainees.

c) Ensuring PFC Manning's Presence At Trial

171. Finally, PFC Manning's confinement conditions were not rationally related to the government objective of ensuring PFC Manning's presence at trial. There is no indication that PFC Manning was a flight risk at the time of his confinement at Quantico. *United States v. Crawford*, 62 M.J. 411, 415 (C.A.A.F. 2006)(additional restrictions warranted because detainee was "both a flight risk and a serious risk of future misconduct."); *United States v. Willenbring*, 56 M.J. 671, 678-9 (Army Ct. Crim. App. 2001)(additional restrictions warranted because "Brig officials clearly had reason to believe that [detainee] was a flight risk and posed a risk to others ... The record establishes a litany of violent, predatory, and dangerous criminal behavior.").

172. In PFC Manning's case, he was an exemplary inmate who never gave Brig officials reason to believe he was a flight risk. *See United States v. Fuson*, 54 M.J. 523, 526 (N-M. Ct. Crim. App. 2000)(holding that imposition of harsher conditions on accused was not justified on the basis that accused was a flight risk, noting that the accused "was not a 'management problem' or a disciplinary problem in the brig. His conduct was consistently evaluated as 'sat,' (satisfactory)...""); *United States v. Brown*, 2006 WL 1662963, *4 (N-M. Ct. Crim. App.)("... this court has warned of the danger of basing pretrial confinement decisions *solely* on the seriousness of an offense or the maximum punishment authorized. In this case, the appellant had already demonstrated that he was not a flight risk for an extended period of time.").

173. The Brig, however, used the seriousness of the charges to conclude – for all time and for all purposes – that PFC Manning was a flight risk. The seriousness of the charges themselves, however, cannot justify an automatic conclusion that a pretrial detainee is a flight risk and thus belongs in MAX custody. *See United States v. Scalarone*, 52 M.J. 539, 544 (N-M. Ct. Crim. App. 1999)(finding that the "focus on the possibility of the [accused's] escape due to the seriousness of the charges, as the reason[] to assign him to "Special Quarters," resulted in the imposition of conditions more rigorous than necessary to ensure his presence for trial."); *United States v. Hancock*, 2011 WL 2557622 (N-M. Ct. Crim. App.)(finding unlawful pretrial punishment where the accused had spent 136 days in solitary confinement as an arbitrary response to the seriousness of the charges against him); *United States v. White*, 2006 WL 4579019 (N-M. Ct. Crim. App.)(finding illegal pretrial punishment where custody determination was based solely on the severity of the murder charge against the accused; court noted that "the maximum custody conditions were not rationally based on security concerns taking into account all of the circumstances, and the resulting conditions were more rigorous than necessary to ensure the [accused's] presence at his trial."); *United States v. Kinzer*, 56 M.J. 739 (N-M. Ct. Crim. App. 2001)(finding illegal pretrial punishment where Marine brig had a "standard procedure ... that detainees facing more than seven years of confinement were considered escape risks per se, and assigned to special quarters"). Otherwise, any detainee facing serious criminal

charges would automatically be deemed a flight risk and relegated to MAX custody for the duration of his time in pretrial confinement.

174. That the seriousness of the charges formed the basis for the decision to retain PFC Manning in MAX and on POI is evident in Col. Choike's Response to PFC Manning's Article 138 Complaint. Col. Choike states:

Classification of prisoners is governed by reference (c). Classification criteria ... include, but are not limited to: assaultive behavior, serious criminal record (convicted or alleged), low tolerance of frustration, poor home conditions or family relationships, mental evaluations indicating serious neurosis or psychosis, demonstrated pattern of poor judgment, and length of potential sentence. The charge sheet available to the PCF upon confinement alleged breaches of security regulations and the leakage of classified documents involving national security.

See Attachment 18.

175. What is telling is that Col. Choike proceeds to list all the factors that should be considered in the classification decision, but only hones on one: the seriousness of the charges. *See also id.* ("Although your mental state was a primary concern and focus, it was not the only factor justifying MAX custody. You are facing serious charges involving wrongfully accessing and transferring classified information and a maximum punishment of 52 years of confinement and a dishonorable discharge.").

176. In Col. Choike's Response to PFC Manning's Rebuttal to the Article 138 Complaint, he states:

I have reviewed the entire record and concur that maximum custody is the appropriate classification for PFC Manning. This does not foreclose a future change in his custody classification. For this reason, his classification and assignment is continuously reviewed. However, he is pending extremely serious charges with national security implications.

See Attachment 19. *See also* Attachment 15 (CWO4 Averhart indicating that "it is my professional opinion that PFC Manning's maximum custody classification is based upon his charges, national security concerns and his behavior while in the facility.").

177. It is abundantly clear that the seriousness of the charges themselves was the primary reason why the Brig (and Col. Choike) thought it appropriate to keep PFC Manning on MAX and POI.¹⁸ This is further evidenced by Mr. Juan Méndez's findings where he states that, "[t]o the Special Rapporteur's request for information on the authority to impose and the purpose of the isolation regime, the government responded that the prison rules authorized the brig commander to impose

¹⁸ This is also clear when one looks at the C&A Board reviews from 3 January 2011 onward. *See* Attachment 6.

it on account of the seriousness of the offense for which he would eventually be charged.” See Attachment 32 (emphasis added).

178. Applying some common sense for a moment, given that PFC Manning was in a secure Marine facility, contained within a Marine compound, it is hard to imagine any scenario under which PFC Manning would have been able to escape. Apparently, security at Quantico includes “a single chain-link fence about 20 feet high with razor wire, cameras, and guards.” http://en.wikipedia.org/wiki/Marine_Corps_Brig,_Quantico. Recall again that PFC Manning diminutive in size. The average Marine Brig guard would likely be nearly 6 feet tall and about 200 pounds. It defies logic to think that somehow, even if he wanted to, PFC Manning could escape from Quantico. The case of *United States v. Fuson*, 54 M.J. 523, 526 (N-M. Ct. Crim. App. 2000) is apposite in this context. In that case, the trial counsel argued:

Your Honor, the reason why the accused is in special quarters is because of his medical condition. It's not a form of punishment. It's because it is to protect himself and to maintain good order within the brig. *Id.* at 526.

179. The court did not accept what it saw as a nonsensical argument, stating, “We cannot condone the imposition of harsher conditions upon a military accused because he has an injury or, for that matter, suffers from some other illness. We think it is somewhat obvious that having a strained right knee does not make an accused a greater flight risk or that placement in ‘special quarters’ is necessary to ensure the presence of such injured personnel for trial.” *Id.* at 527. Likewise, the Defense submits that it is “somewhat obvious” that, given PFC Manning’s physical stature and his location in a secure confinement facility *within* a secure Marine compound, that he was not legitimate flight risk.

180. Moreover, the Government did not have a greater interest in ensuring that PFC Manning appeared at trial than it did with any other pretrial detainee confined at the Quantico Brig. And yet, other detainees were not subjected to these conditions. See *United States v. Harris*, 2007 WL 1702575, *2 (finding illegal punishment where “the Government presented no evidence that [detainee] was a flight risk or that there was any risk that he would harm himself or others if lesser degrees of restraint were utilized.”); *United States v. Fricke*, 53 M.J. 149, 154 (C.A.A.F. 2000)(noting that conditions similar to those alleged by accused [confinement in cell for 23 hours a day] “have previously been considered far more onerous than would be required to assure [accused’s] presence [at trial].”)(citations omitted).

181. In his response to PFC Manning’s Article 138 Complaint, Col. Choike noted that in determining PFC Manning’s classification status, relevant concerns included “national security concerns and protection of classified material.” See Attachment 19. It is impossible to fathom how “national security concerns” and “protection of classified material” would be impacted if PFC Manning were to be retained in MDI (rather than MAX) and not under POI status. As such, these factors are unrelated to any legitimate government objective – and in particular, to the objective of ensuring PFC Manning’s presence at trial. Also in this Response, Col. Choike astoundingly refers to all these conditions as “narrowly tailored.” See *id.* Not only were the

conditions decidedly not narrowly tailored, they were arbitrary, purposeless and bore no relation to a legitimate governmental goal. See *United States v. Crawford*, 62 M.J. 411, 416 (C.A.A.F. 2006) (“we [do not] condone arbitrary policies imposing ‘maximum custody’ upon pretrial prisoners.”); *United States v. James*, 28 M.J. 214, 216 (C.M.A. 1989) (conditions that are arbitrary or purposeless can be considered to raise an inference of punishment).

182. The decision to retain PFC Manning under MAX and POI cannot be justified by general averments that “the PCF Commander has the inherent authority over those in his custody to maintain good order and discipline and the responsibility to ensure safety and security in the PCF.” See Attachment 18. As the 7th Circuit aptly stated in *Lock v. Jenkins*, 641 F.2d 488, 498 (7th Cir.1981), courts need not “grant automatic deference to ritual incantations by prison officials that their actions foster the goals of order and discipline.” In this case, there has been nothing but “ritual incantations.”

183. It is evident that the decision to retain PFC Manning in the functional equivalent of solitary confinement for almost nine months was arbitrary, capricious and not rationally related to a legitimate government objective. It is worth noting that the Marine Corps has long history of arbitrary and unreasonable Brig policies which amount to pretrial punishment.

184. For instance, in *United States v. Anderson*, 49 M.J. 575 (N-M. Ct. Crim. App. 1998), the court found that there was an “unwritten policy” at the Camp Pendleton Marine confinement facility that “places pretrial confines in maximum-custody status based solely on whether the potential confinement they face is greater than 5 years.” *Id.* at 576. In finding that this constituted unlawful pretrial punishment, the court stated:

Based on the information available to the court, we are very concerned about what appears to be an arbitrary policy to place in maximum confinement all persons who face a period of confinement in excess of 5 years. All such persons apparently remain in maximum confinement, with all the deprivations that entails, until trial or such time as the service member enters into a pretrial agreement capping confinement at 5 years or less.

We recognize, of course, that the potential length of confinement a service member faces is a relevant factor in determining the likelihood he may attempt to flee. Moreover, the seriousness and nature of the offenses can be relevant in determining both the individual’s flight risk as well as whether he represents a danger to others in the brig. We are hesitant to second-guess the decisions of brig personnel, who are required to maintain good order and discipline under difficult circumstances. Based on their extensive training and experience, we recognize that such personnel are generally much better equipped than are we to make such tough calls. Had the decision-making process considered all the relevant factors, we would intervene only under the most unusual circumstances. Here, however, the Government has made no effort to rebut the appellant’s contentions that the length of potential confinement was the *only* factor brig personnel considered.

Before significantly curtailing the freedom of Marines facing general courts-martial, this court and others responsible for the military justice system must ensure the integrity of the system. These decisions cannot be based on a single blanket criterion to the exclusion of all other factors.

Id. at 576-7 (emphasis in original).

185. The Court also expressed concern “about this policy’s coercive effect on pretrial confinees. It places considerable pressure on them to enter into a pretrial agreement and then plead guilty simply to get out of maximum custody.” *Id.* The court further admonished those involved “in the administration of Navy and Marine Corps brig” to “ensure that decisions whether to place pretrial confinees in a maximum-custody status are based on all relevant factors.” *Id.*

186. *Anderson* is not the only case to address the arbitrary Brig policy at Camp Pendleton. See *United States v. Evans*, 55 M.J. 732 (N-M. Ct. Crim. App. 2001) (“As we have found in other cases, however, we find that the decision to place the appellant in Special Quarters 1 was made in conformance with the standard operating procedures [SOP] then in existence within the brig at Camp Pendleton. That SOP required that anyone facing more than five years confinement to be automatically placed in Special Quarters 1. Accordingly, we find that the decision to place the appellant in Special Quarters 1 was based on an arbitrary policy and resulted in the imposition of conditions more rigorous than necessary to insure his presence for trial.”)(citations omitted); *United States v. Rodriguez*, 2002 WL 31433595 (N-M. Ct. Crim. App.) (“To the extent his custody determination was based solely on that criterion, it resulted in conditions more rigorous than necessary to ensure the appellant’s presence for trial. Based upon the evidence presented to us, we find that the appellant has met his burden and the Government has not. Accordingly, we find that the decision to place and keep the appellant in special quarters was based solely upon an arbitrary policy in place at the Camp Pendleton Brig and resulted in the imposition of conditions more rigorous than the circumstances required to insure the appellant’s presence at trial.”)(citations omitted); *United States v. Salinas*, 1999 WL 1076885, *4 (N-M. Ct. Crim. App.) (“In light of the available facts, we are convinced that the 5-year criterion for maximum custody dispositions existed at the Camp Pendleton Base Brig at the time of the appellant’s pretrial confinement. And, in the absence of more convincing evidence that this rule was not applied to him, and in the interest of judicial economy, we will afford the appellant an additional 128 days of judicially ordered credit to be applied against his approved sentence.”). Nor is the policy that existed at Camp Pendleton an isolated one. See *United States v. Kinzer*, 56 M.J. 739, 741 (N-M. Ct. Crim. App. 2001) (arbitrary brig policy existed at Camp Lejeune).

187. Like in *Anderson* and in all the cases cited above, the Marine brig at Quantico had an arbitrary policy to keep PFC Manning (and only PFC Manning) in MAX and on POI indefinitely. As the Court of Appeal for the Armed Forces has said, “we do [not] condone arbitrary policies imposing ‘maximum custody’ upon pretrial prisoners. We will scrutinize closely any claim that maximum custody was imposed solely because of the charges rather than as a result of a reasonable evaluation of all the facts and circumstances of a case.” See *United States v. Crawford*, 62 M.J. 411, 416 (C.A.A.F. 2006). The policy to keep PFC Manning on

MAX and POI was not based on any legitimate government objective, such as protecting PFC Manning from self-harm, protecting others, or ensuring PFC Manning's presence at trial. Instead, the decision was an "unwritten policy" by the higher-ups at Quantico who had decided that, as long as PFC Manning remained at Quantico, nothing would ever change. *United States v. Anderson*, 49 M.J. 575 (N-M. Ct. Crim. App. 1998).

188. But after PFC Manning was moved to the Fort Leavenworth Joint Regional Correctional Facility (JRCF), things did change. After a routine indoctrination period, PFC Manning was assigned to Medium Custody. The severe restrictions on his liberty have been lifted. He is now permitted to eat with other detainees, socialize with other detainees, walk around without metal shackles, have personal and hygiene items in his cell, etc. PFC Manning has been held in this status for approximately the past 15 months.

189. The fact that PFC Manning went from MAX and POI at Quantico to Medium Custody at the JRCF virtually overnight is evidence that he was improperly held in MAX and POI to begin with. See *United States v. Kinzer*, 56 M.J. 739, 741 (N-M. Ct. Crim. App. 2001) ("The fact that the appellant was released from special quarters the very next day after securing a pretrial agreement that limited his post-trial confinement to only three years is strong evidence that his assignment to special quarters was based primarily upon a length-of-sentence policy, and not upon other appropriate factors. Accordingly, we find that the decision to place the appellant in special quarters was based on an arbitrary policy and resulted in the imposition of conditions more rigorous than necessary to insure his presence for trial.").

190. For the reasons outlined above, it is clear that the conditions of PFC Manning's confinement were not related – much less rationally related – to the only permissible government objectives in imposing greater than normal confinement restrictions: protecting PFC Manning from harming himself; protecting PFC Manning from harming others; and ensuring PFC Manning's presence at trial.

D. The Conditions of PFC Manning's Confinement Were so Onerous that they Permit the *Per Se* Inference that his Article 13 Rights were Violated

191. In *United States v. McCarthy*, 47 M.J. 162, 165 (C.A.A.F. 1997), the Court of Appeals for the Armed Forces held that conditions of confinement may be so egregious and onerous that "they give rise to a permissible inference that [the accused] is being punished, or may be so excessive as to constitute punishment." Such is the case here. The harsh conditions under which PFC Manning was confined over the course of nine months while in pretrial confinement at Quantico give rise to a sole permissible inference: PFC Manning was punished in violation of his Article 13 rights. See also *United States v. Fulton*, 52 M.J. 767 (A. F. Ct. Crim. App. 2000) (noting that "the actions of the confinement staff were so egregious that we ... are inescapably led to only one conclusion: The [accused] was intentionally subjected to unduly rigorous conditions which cannot be supported by any legitimate government purpose.").

- a) The Conditions of PFC Manning's Confinement in MAX and on POI were Unduly Onerous

192. PFC Manning served over nine months of confinement in MAX custody and under either Suicide Risk or POI. While PFC Manning was not technically held under the classification of "solitary confinement" (a classification that the Quantico Brig does not have¹⁹), the cumulative effect of PFC Manning's confinement conditions were tantamount to solitary confinement. See *United States v. Amaro*, 2009 WL 1936444, *1 (A. F. Ct. Crim. App.) (accused's confinement in "protective custody" was "tantamount to solitary confinement").

193. In his Testimony before the Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights Hearing on Solitary Confinement,²⁰ Professor Craig Haney described the characteristics of solitary confinement as follows:

¹⁹ See Attachment 15 ("The Quantico base pretrial confinement facility does not have solitary confinement").

²⁰ The Committee was established to investigate the "serious human rights, fiscal, and public safety consequences" associated with the use of solitary confinement in American Prisons. See Statement of The Honorable Patrick Leahy, Attachment 37. Senator Leahy writes:

Although solitary confinement was developed as a method for handling highly dangerous prisoners, it is increasingly being used with inmates who do not pose a threat to staff or other inmates. Far too often, prisoners today are placed in solitary confinement for minor violations that are disruptive but not violent. At the same time, conditions within segregation units have become increasingly harsh. In many cases, human contact is virtually eliminated. Officers deliver meal trays through a door slot, and visits by mental health staff are conducted through the cell door. Interaction with other prisoners is often not allowed, and visits with family members may be prohibited for a year or more.

There are significant fiscal, safety and humanitarian consequences for this trend toward increasingly harsh conditions of solitary confinement and its more frequent use to punish non-violent behavior. Evidence provided by the Vera Institute and others now suggests that placing inmates in solitary confinement with minimal human contact for days, months and years is exceptionally expensive and, in many cases, counterproductive. Not only do these studies show that segregation does little or nothing to lower overall rates of violence, there is evidence that it actually increases recidivism rates after release, posing a danger to the public.

Id. Similarly, Senator Dick Durbin expresses the following views on solitary confinement:

In 1995, a federal district court described similar cells at California's Pelican Bay State Prison:

"The cells are windowless; the walls are white concrete. ...The overall effect [] is one of stark sterility and unremitting monotony. Inmates can spend years without ever seeing any aspect of the outside world except for a small patch of sky. One inmate fairly described [it] as being 'like a space capsule where one is shot into space and left in isolation.'"

Imagine spending 23 hours a day in a cell like that – for days, months, years – with no window to the outside world and very little, if any, human contact.

The United States holds far more prisoners in solitary than any other democratic nation. The Bureau of Justice Statistics found that in 2005, U.S. prisons held 81,622 people in some kind of restricted housing. In my home state of Illinois, 56% of the prison population has spent time in segregation.

I should acknowledge that the term “solitary confinement” is a term of art in corrections. Solitary or isolated confinement goes by a variety of names in U.S. prisons—Security Housing, Administrative Segregation, Close Management, High Security, Closed Cell Restriction, and so on. But the units all have in common the fact that the prisoners who are housed inside them are confined on average 23 hours a day in typically windowless or nearly windowless cells that commonly range in dimension from 60 to 80 square feet. The ones on the smaller side of this range are roughly the size of a king-sized bed, one that contains a bunk, a toilet and sink, and all of the prisoner’s worldly possessions. Thus, prisoners in solitary confinement sleep, eat, and defecate in their cells, in spaces that are no more than a few feet apart from one another.

See Attachment 37. Thus, the combination of PFC Manning’s MAX and POI status (coupled with his periodic Suicide Risk status) most certainly amounts to what would colloquially be known as “solitary confinement.”²¹

194. There was absolutely no justification – and there can be no justification – for the continued decision to hold PFC Manning in solitary confinement for over nine months. In *United States v. King*, 61 M.J. 225, 229 (C.A.A.F. 2005), the Court of Appeal for the Armed Forces found an Article 13 violation where the accused was arbitrarily placed in solitary confinement for a mere two weeks. In that case, the court said, “[p]lacing [an accused] in a segregated environment with all the attributes of severe restraint and discipline, without an individualized demonstration of cause in the record, was so excessive as to be punishment ...”. Similarly, in *United States v. Amaro*, 2009 WL 1936444 (A. F. Ct. Crim. App.), the Court found a violation of Article 13 and awarded 4-for-1 credit where the accused spent 33 days in conditions tantamount to solitary confinement. If a few weeks of solitary confinement cannot be tolerated, what are we to say about approximately 265 days?

195. Even where solitary confinement serves some sort of legitimate non-punitive objective, military courts have considered the length that a prisoner is placed in solitary confinement in order to discern whether the condition is imposed as punishment in violation of Article 13. In *United States v. Suttle*, 2011 WL 5221266 (N.-M. Ct. Crim. App.), the court found that the accused spent 59 days in solitary confinement in a Japanese prison for a legitimate non-punitive reason. The Court in that case emphasized that, “The conditions in special quarters were neither so onerous, *nor lingered so long*, as to constitute punishment, ...” *Id.* at *4. Here, even if MAX and POI were rationally related to a legitimate government objective (which the Defense submits

...But we now know that solitary confinement isn’t just used for the worst of the worst. Instead, we are seeing an alarming increase in isolation for those who don’t need to be there – and for vulnerable groups like immigrants, children, LGBT inmates, supposedly for their own protection.

Id.

²¹ PFC Manning’s cell at Quantico was much smaller than the cells typically seen by Professor Haney in solitary confinement. PFC Manning’s cell was a windowless cell that was 48 square feet in dimension (6x8).

they were not), the conditions did in fact “linger so long[] as to constitute punishment” in contravention of Article 13.

196. Even Brig official GYSGT Blenis admitted to PFC Manning that his treatment at Quantico was “not normal.” He stated, “We understand it’s not normal that we have someone in POI for this period of time... It’s not [normal] ... I guess we’ll just leave it at that.” See Attachment 25. Not only was the treatment not normal, it was onerous, degrading and harmful to PFC Manning’s mental health.²²

197. It is trite law that PFC Manning is presumed innocent until proven guilty. And yet, PFC Manning has been treated in a manner that would not even be appropriate for *convicted* offenders. *Campbell v. Cauthron*, 623 F.2d 503 (8th Cir. 1980) (“conditions found to constitute cruel and unusual punishment when imposed on convicted inmates would surely be viewed as unconstitutional punishment when imposed on similarly situated unconvicted detainees”). In fact, COL Malone, one of the treating psychiatrists at the Brig, has indicated that the only time he has ever seen anyone held in conditions similar to PFC Manning was when he treated prisoners *on death row*. That a psychiatrist with over a decade of experience has only witnessed conditions like the ones endured by PFC Manning when he visited death row should speak volumes as to how far outside the lines Quantico acted in imposing pretrial punishment on PFC Manning.

198. The conditions under which PFC Manning was held for over eight months ride roughshod over PFC Manning’s right to be presumed innocent and his right against pretrial punishment. Even leaving aside any conceivable justification for the imposition of these restrictions, it is clear that these conditions amount to *per se* unlawful pretrial punishment.

b) The Conditions of PFC Manning’s Confinement Sparked Domestic and International Outrage

199. The egregious conditions of PFC Manning’s confinement sparked both domestic and international outrage. In a letter to Secretary of Defense Gates, the program director of Amnesty International wrote:

²² The excessiveness of the restrictions placed on PFC Manning are highlighted when one looks at the corresponding Army Regulation governing corrections practices. Under Army Regulation 190-47, designation in special quarters is determined “upon recommendations of the professional support staff or correctional treatment staff or medical authority.” See Section 12-6. Even where “determined necessary by a medical authority, prisoners designated for special quarters should be allowed to participate in work/training activities, consume meals with the general population, and participate in recreation programs. Special quarters will be terminated as soon as it is determined that the prisoner can be quartered satisfactorily within the general population.” *Id.* Although the regulation does not provide an outermost guidepost to the length of time a detainee can spend in special quarters, it does provide that “Disciplinary segregation ... normally should not exceed 60 consecutive days. Prisoners held in disciplinary segregation for periods exceeding 60 days will be provided the same program services and privileges as prisoners in administrative segregation and protective custody.” *Id.*

Amnesty International recognizes that it may sometimes be necessary to segregate prisoners for disciplinary or security purposes. However, the restrictions imposed in PFC Manning's case appear to be unnecessarily harsh and punitive, in view of the fact that he has no history of violence or disciplinary infractions and that he is a pretrial detainee not yet convicted of any offence. The conditions under which PFC Manning is held appear to breach the USA's obligations under international standards and treaties, including Article 10 of the International Covenant on Civil and Political Rights (ICCPR) which the USA ratified in 1992 and which states that "all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person". The UN Human Rights Committee, the ICCPR monitoring body, has noted in its General Comment on Article 10 that persons deprived of their liberty may not be "subjected to any hardship or constraint other than that resulting from the deprivation of liberty; respect for the dignity of such persons must be guaranteed under the same conditions as for that of free persons ...".

The harsh conditions imposed on PFC Manning also undermine the principle of the presumption of innocence, which should be taken into account in the treatment of any person under arrest or awaiting trial. We are concerned that the effects of isolation and prolonged cellular confinement – which evidence suggests can cause psychological impairment, including depression, anxiety and loss of concentration – may, further, undermine his ability to assist in his defence and thus his right to a fair trial.

In view of the concerns raised, we urge you to review the conditions under which PFC Manning is confined at the Quantico naval brig and take effective measures to ensure that he is no longer held in 23 hour cellular confinement or subjected to other undue restrictions.

See Attachment 28.

200. Further, almost 300 law professors signed a letter admonishing the government for the "degrading," "inhumane," "illegal," and "immoral" conditions of PFC Manning's confinement:

The sum of the treatment that has been widely reported is a violation of the Eighth Amendment's prohibition of cruel and unusual punishment, and the Fifth Amendment's guarantee against punishment without trial. If continued, it may well amount to a violation of the criminal statute against torture, defined as, among other things, "the administration or application... of... procedures calculated to disrupt profoundly the senses or the personality."

Private Manning has been designated as an appropriate subject for both Maximum Security and Prevention of Injury (POI) detention. But he asserts that his administrative reports consistently describe him as a well-behaved prisoner who

does not fit the requirements for Maximum Security detention. The Brig psychiatrist began recommending his removal from Prevention of Injury months ago. These claims have not been publicly contested. In an Orwellian twist, the spokesman for the brig commander refused to explain the forced nudity "because to discuss the details would be a violation of Manning's privacy."

The Administration has provided no evidence that Manning's treatment reflects a concern for his own safety or that of other inmates. Unless and until it does so, there is only one reasonable inference: this pattern of degrading treatment aims either to deter future whistleblowers, or to force Manning to implicate Wikileaks founder Julian Assange in a conspiracy, or both.

If Manning is guilty of a crime, let him be tried, convicted, and punished according to law. But his treatment must be consistent with the Constitution and the Bill of Rights. There is no excuse for his degrading and inhumane pretrial punishment. As the State Department's PJ Crowley put it recently, they are "counterproductive and stupid." And yet Crowley has now been forced to resign for speaking the plain truth.

The WikiLeaks disclosures have touched every corner of the world. Now the whole world watches America and observes what it does; not what it says.

President Obama was once a professor of constitutional law, and entered the national stage as an eloquent moral leader. The question now, however, is whether his conduct as Commander in Chief meets fundamental standards of decency. He should not merely assert that Manning's confinement is "appropriate and meet[s] our basic standards," as he did recently. He should require the Pentagon publicly to document the grounds for its extraordinary actions --and immediately end those which cannot withstand the light of day.

See Attachment 29.

201. American's foremost constitutional law scholar, Harvard Professor Laurence Tribe, denounced PFC Manning's conditions of confinement as "not only shameful but unconstitutional." See <http://www.guardian.co.uk/world/2011/apr/10/bradley-manning-legal-scholars-letter>. Professor Tribe stated that the treatment was objectionable "in the way it violates his person and his liberty without due process of law and in the way it administers cruel and unusual punishment of a sort that cannot be constitutionally inflicted even upon someone convicted of terrible offences, not to mention someone merely accused of such offences." *Id.*

202. Medical professionals also decried PFC Manning's treatment as amounting to "needless brutality." Psychologists for Social Responsibility (PsySR) sent the following letter to Secretary of Defense Gates:

As an organization of psychologists and other mental health professionals, PsySR is aware that solitary confinement can have severely deleterious effects on the psychological well-being of those subjected to it. We therefore call for a revision in the conditions of PFC Manning's incarceration while he awaits trial, based on the exhaustive documentation and research that have determined that solitary confinement is, at the very least, a form of cruel, unusual and inhumane treatment in violation of U.S. law.

In the majority opinion of the U.S. Supreme Court case *Medley*, Petitioner, 134 U.S. 1690 (1890), U.S. Supreme Court Justice Samuel Freeman Miller wrote, "A considerable number of the prisoners fell, after even a short confinement, into a semi-fatuous condition, from which it was next to impossible to arouse them, and others became violently insane; others still, committed suicide; while those who stood the ordeal better were not generally reformed, and in most cases did not recover sufficient mental activity to be of any subsequent service to the community." Scientific investigations since 1890 have confirmed in troubling detail the irreversible physiological changes in brain functioning from the trauma of solitary confinement.

As expressed by Dr. Craig Haney, a psychologist and expert in the assessment of institutional environments, "Empirical research on solitary and supermax-like confinement has consistently and unequivocally documented the harmful consequences of living in these kinds of environments . . . Evidence of these negative psychological effects comes from personal accounts, descriptive studies, and systematic research on solitary and supermax-type confinement, conducted over a period of four decades, by researchers from several different continents who had diverse backgrounds and a wide range of professional expertise... [D]irect studies of prison isolation have documented an extremely broad range of harmful psychological reactions. These effects include increases in the following potentially damaging symptoms and problematic behaviors: negative attitudes and affect, insomnia, anxiety, panic, withdrawal, hypersensitivity, ruminations, cognitive dysfunction, hallucinations, loss of control, irritability, aggression, and rage, paranoia, hopelessness, lethargy, depression, a sense of impending emotional breakdown, self-mutilation, and suicidal ideation and behavior" (pp. 130-131, references removed).

Dr. Haney concludes, "To summarize, there is not a single published study of solitary or supermax-like confinement in which non-voluntary confinement lasting for longer than 10 days where participants were unable to terminate their isolation at will that failed to result in negative psychological effects" (p. 132).

We are aware that prison spokesperson First Lieutenant Brian Villiard has told AFP that Manning is considered a "maximum confinement detainee," as he is considered a national security risk. But no such putative risk can justify keeping someone not convicted of a crime in conditions likely to cause serious harm to his

mental health. Further, history suggests that solitary confinement, rather than being a rational response to a risk, is more often used as a punishment for someone who is considered to be a member of a despised or "dangerous" group. In any case, PFC Manning has not been convicted of a crime and, under our system of justice, is at this point presumed to be innocent.

...

In addition to the needless brutality of the conditions to which PFC Manning is being subjected, PsySR is concerned that the coercive nature of these conditions - along with their serious psychological effects such as depression, paranoia, or hopelessness -- may undermine his ability to meaningfully cooperate with his defense, undermining his right to a fair trial. Coercive conditions of detention also increase the likelihood of the prisoner "cooperating" in order to improve those circumstances, even to the extent of giving false testimony. Thus, such harsh conditions are counter to the interests of justice.

Given the nature and effects of the solitary confinement to which PFC Manning is being subjected, Mr. Secretary, Psychologists for Social Responsibility calls upon you to rectify the inhumane, harmful, and counterproductive treatment of PFC Bradley Manning immediately.

See Attachment 30. This organization has also submitted an amicus filing for this Court's consideration. See Attachment 41.

203. One member of the Obama administration was fired for his comments regarding PFC Manning's conditions of confinement. In March 2011, State Department spokesman P.J. Crowley was asked the following question, "There's an elephant in the room during this discussion: Wikileaks. The US government is torturing a whistleblower in prison right now." Crowley replied by denouncing the abuse of PFC Manning as "ridiculous and counterproductive and stupid."²³ P.J. Crowley was forced to "resign" shortly after he made the comment. P.J. Crowley later stood by his statement, saying that "if you have to explain why a guy is standing naked in the middle of a jail cell, you have a policy in need of urgent review."²⁴

204. European leaders have also criticized the United States for its treatment of PFC Manning. In an open letter to President Barack Obama, among others, members of the European parliament wrote to express concerns about human rights abuses against PFC Manning. They urged the United States to allow the United Nations to investigate the claims:

By preventing UN officials from carrying out their duties, the United States government risks undermining support for the work of the United Nations

²³ See <http://www.nytimes.com/2011/03/14/us/politics/14crowley.html>.

²⁴ See <http://www.guardian.co.uk/commentisfree/cifamerica/2011/mar/29/bradley-manning-wikileaks>.

elsewhere, particularly its mandate to investigate allegations of torture and human rights abuses. In order to uphold the rights guaranteed to Bradley Manning under international human rights law and the US constitution, it is imperative that the United Nations special rapporteur be allowed to properly investigate evidence of rights abuses. PFC Manning has a right to be free from cruel and unusual punishment. People accused of crimes must not be subjected to any form of punishment before being brought to trial.

See Attachment 21.

205. That the conditions of PFC Manning's confinement while at Quantico sparked domestic and international outrage should have signaled that what the Brig was doing was not only wrong, but egregiously wrong. Nearly every constituency that has heard about the conditions of PFC Manning's confinement, from doctors to lawyers to politicians, has considered these conditions to constitute not only "unlawful pretrial punishment" but also a gross violation of PFC Manning's basic human rights.

c) The United Nations Special Rapporteur on Torture Was Not Permitted to Investigate the Conditions of PFC Manning's Confinement

206. The United Nations Special Rapporteur on Torture, Juan Méndez, repeatedly attempted to investigate the harsh conditions of PFC Manning's confinement only to be met with Brig assertions that any interview of PFC Manning would be subject to monitoring. In a Press Release issued by the United Nations Office of the High Commissioner, the U.N. expressed grave concern that the United States would not permit unrestricted access to PFC Manning:

12 July 2011

GENEVA – The Special Rapporteur on Torture today expressed concerns about restrictions placed by the United States Government on his interaction with detainees.

Commenting on his attempts to gain unrestricted access to Private first class Bradley Manning, a United States soldier detained for allegedly leaking classified US communications to the WikiLeaks website, Mendez said: "I am assured by the US Government that Mr. Manning's prison regime and confinement is markedly better than it was when he was in Quantico. However, in addition to obtaining first hand information on my own about his new conditions of confinement, I need to ascertain whether the conditions he was subjected to for several months in Quantico amounted to torture or cruel, inhuman or degrading treatment or punishment. For that, it is imperative that I talk to Mr. Manning under conditions where I can be assured that he is being absolutely candid."

At the Special Rapporteur's request and after several meetings, the US Department of Defense has allowed Mendez to visit Pfc. Manning but warned

him that the conversation would be monitored. Such a condition violates long-standing rules that the UN applies for prison visits and for interviews with inmates everywhere in the world. On humanitarian grounds and under protest, Mendez offered to Manning, through his counsel, to visit him under these restrictive conditions, an offer that Manning has declined.

The Special Rapporteur has, since the beginning of the year, been in negotiations with the US Government over unrestricted access to Manning. Last month, the Government informed him that it was not in a position to accede to the request for a private and unmonitored meeting with Manning.

"The question of my unfettered access to a detainee goes beyond my request to meet with Mr. Manning – it touches on whether I will be able to conduct private and unmonitored interviews with detainees if I were to conduct a country visit to the United States," Mendez said.

He added that maintaining the principle of unfettered access to detainees is an important part of his responsibility as the UN expert on torture. It also determines whether UN experts can conduct credible enquiries into allegations of torture and ill-treatment when they visit places of detention and detainees. In 2004, the US Government allowed Mendez's predecessor, Manfred Nowak, and three other mandate-holders, access to the Guantanamo Bay facilities, but the George W Bush administration imposed conditions that the UN mandate-holders could not accept. Early in his tenure, which began on November 1, 2010, Mendez formally asked the US Government for permission to visit Guantanamo Bay, a petition that has been renewed on several occasions since then. No answer has yet been given to this request.

"The United States, as a world leader, is a strong supporter of the international human rights system. Therefore, its actions must seek to set the pace in good practices that enhance the role of human rights mechanisms, ensuring and maintaining unfettered access to detainees during enquiries," he added.

See Attachment 32.

207. On 29 February 2012, the U.N. Special Rapporteur issued a statement condemning the conditions of PFC Manning's confinement and the United States' violation of the "terms of reference applied universally in fact-finding by Special Procedures" (i.e. its failure to permit an unmonitored visit). Mr. Méndez wrote:

United States of America

(a) UA 30/12/2010 Case No. USA 20/2010 State reply: 27/01/2011 19/05/2011
Allegations of prolonged solitary confinement of a soldier charged with the unauthorized disclosure of classified information.

170. The Special Rapporteur thanks the Government of the United States of America for its response to this communication regarding the alleged prolonged solitary confinement of Mr. Bradley E. Manning, a US soldier charged with the unauthorized disclosure of classified information. According to the information received, Mr. Manning was held in solitary confinement for twenty-three hours a day following his arrest in May 2010 in Iraq, and continuing through his transfer to the brig at Marine Corps Base Quantico. His solitary confinement - lasting about eleven months - was terminated upon his transfer from Quantico to the Joint Regional Correctional Facility at Fort Leavenworth on 20 April 2011. In his report, the Special Rapporteur stressed that "solitary confinement is a harsh measure which may cause serious psychological and physiological adverse effects on individuals regardless of their specific conditions." Moreover, "[d]epending on the specific reason for its application, conditions, length, effects and other circumstances, solitary confinement can amount to a breach of article 7 of the International Covenant on Civil and Political Rights, and to an act defined in article 1 or article 16 of the Convention against Torture." (A/66/268 paras. 79 and 80) Before the transfer of Pfc Manning to Fort Leavenworth, the Special Rapporteur requested an opportunity to interview him in order to ascertain the precise conditions of his detention. The US Government authorized the visit but ascertained that it could not ensure that the conversation would not be monitored. Since a non-private conversation with an inmate would violate the terms of reference applied universally in fact-finding by Special Procedures, the Special Rapporteur had to decline the invitation. In response to the Special Rapporteur's request for the reason to hold an unindicted detainee in solitary confinement, the government responded that his regimen was not "solitary confinement" but "prevention of harm watch" but did not offer details about what harm was being prevented. To the Special Rapporteur's request for information on the authority to impose and the purpose of the isolation regime, the government responded that the prison rules authorized the brig commander to impose it on account of the seriousness of the offense for which he would eventually be charged. The Special Rapporteur concludes that imposing seriously punitive conditions of detention on someone who has not been found guilty of any crime is a violation of his right to physical and psychological integrity as well as of his presumption of innocence. The Special Rapporteur again renews his request for a private and unmonitored meeting with Mr. Manning to assess his conditions of detention.

(b) AL 15/06/2011 Case No. USA 8/2011 State reply: None to date Follow-up to a letter sent 13 May 2011 requesting a private unmonitored meeting with Private (Pfc.) Bradley Manning.

171. The Special Rapporteur thanks the Government of the United States of America for its response to the communication dated 13 May 2011 requesting a private unmonitored meeting with Private Bradley Manning. Regrettably, to date

the Government continues to refuse to allow the Special Rapporteur to conduct private, unmonitored, and privileged communications with Private Manning, in accordance with the working methods of his mandate (E/CN.4/2006/6 paras. 20-27).

Id.

208. In March 2012, Mr. Méndez, speaking at a U.N. Human Rights Council meeting in Geneva, condemned PFC Manning's treatment as "cruel, inhuman and degrading treatment," specifically citing "the excessive and prolonged isolation he was put in during the eight months he was in Quantico." He also rejected the justifications offered by government officials for what was done to Manning: "the explanation I was given for those eight months was not convincing for me." *Id.* It is hypocritical for the United States to admonish other countries for their lack of transparency in the treatment of prisoners, while refusing to allow the United Nations meaningful access to a pretrial detainee on U.S. soil.

209. By insisting that the visit be monitored,²⁵ Quantico officials could thwart the very purpose of the process: to allow PFC Manning to speak candidly about the conditions of his confinement without fear of reprisal. The Defense submits that the failure to allow PFC Manning to have access to Mr. Méndez for an unmonitored visit where PFC Manning could freely discuss the conditions of his confinement in the hopes of getting some type of reprieve from them *itself* amounts to unlawful pretrial punishment. Because everyone at the Quantico Brig was abiding by Col. Oltman's unlawful order to not remove PFC Manning from MAX or POI, there was nowhere for PFC Manning to go – other than outside the chain of command – to potentially get relief. The failure to permit PFC Manning an unmonitored visit with the U.N. Special Rapporteur on Torture was designed to cover up from public view the wrongs that were being perpetrated at Quantico. Not only were Quantico officials insistent on keeping PFC Manning in MAX and on POI for the duration of his pretrial confinement, they were also insistent on shutting him up about it by foreclosing the only remaining avenue of redress – an organization outside the U.S. government.

210. The Brig's failure to allow PFC Manning access to the United Nations Special Rapporteur on Torture, in clear violation of international norms, itself amounts to punishment and also permits the *per se* inference that PFC Manning was being punished in contravention of his Article 13 rights.

d) The Conditions of PFC Manning's Confinement Permit the *Per Se* Inference that PFC Manning was Punished in Violation of Article 13

211. The cumulative conditions under which PFC Manning was held are unduly onerous, degrading, and detrimental to PFC Manning's mental health. Even leaving aside any conceivable government justification for these restrictions, the severity of the conditions under which PFC Manning was held permit the *per se* inference that the conditions were meant to

²⁵ The Brig, through the Government in this case, advanced the most narrow and nonsensical reading of the Brig's visitation rules. See *infra*, Facts. Regardless, well-established norms of international law clearly take precedence over Quantico's poorly-drafted visitation policy.

punish PFC Manning. See *U.S. v. Harris*, 2007 WL 1702575, *2 (“When an arbitrary brig policy results in particularly egregious conditions of confinement, the court may infer that an accused has been subject to pretrial punishment”).

212. Indeed, courts have found Article 13 violations in circumstances far less egregious than these. See *United States v. Scalapone*, 52 M.J. 539 (N-M. Ct. Crim. App. 1999)(finding illegal pretrial punishment where accused held in medium custody special quarters for 87 days; in these special quarters, the accused was segregated from other prisoners and housed in a smaller cell for 23 hours a day); *United States v. Fuson*, 54 M.J. 523, 526 (N-M. Ct. Crim. App. 2000)(finding illegal pretrial punishment where accused spent 32 days in special quarters; the conditions under which the accused was held included “a 6’ x 9’ cell with no windows and having to remain in his cell 24 hours per day except for chow and a one-hour recreation break Monday through Friday.”); *United States v. Sterling*, 2009 WL 1936287 (A. F. Ct. Crim. App.)(finding unlawful pretrial punishment where accused was placed in administrative segregation for 75 days, confined to a single cell up to 23.5 hours a day). See also *Lock v. Jenkins*, 641 F.2d 488, 494 (7th Cir. 1981)(finding a due process violation where pretrial detainees spent at 22 hours daily in their cells); *Campbell v. Cauthron*, 623 F.2d 503 (8th Cir. 1980)(finding a due process violation where pretrial detainees were locked in cells twenty-four hours per day, with release only three times weekly; these detainees, however, were not in solitary confinement); *Ramos v. Lamm*, 485 F. Supp. 122 (D. Colo. 1979)(district court finding conditions of confinement unconstitutional and ordering that no prisoner could be housed in less than 80 square feet for more than 20 hours per day.); *Lyons v. Powell*, 838 F.2d 28, 29 (1st Cir. 1988)(“In view of the apparently small area of confinement, we are further troubled by the appellant’s contention that he was confined to his cell for 22-23 hours per day for a 27-day period”); *Magluta v. Samples*, 375 F. 3d 1269, 1274 (11th Cir. 2004)(11th Circuit “readily concluded” that the plaintiff stated a claim for a substantive due process violation where “plaintiff was confined under extremely harsh conditions – in solitary confinement (under conditions unlike other pretrial detainees or even convicted prisoners), locked in an extremely small, closet-sized space, and with minimal contact with human beings for a prolonged time ...”; in *Magluta*, unlike the situation here, the plaintiff was actually a flight risk, as evidenced by officials’ investigation into four separate escape plots.).

213. Thus, the conditions that PFC Manning endured for nine months are not constitutionally permissible. The conditions were so draconian and so far removed from the outer boundaries of propriety that they permit the *per se* inference of punishment in violation of Article 13.

E. Dismissal of All Charges is the Only Appropriate Remedy in this Case

214. Although some form of confinement credit is the typical remedy in cases involving unlawful pretrial punishment, dismissal is available as a remedy in an appropriate case. The Defense submits that if dismissal is not warranted in this case, then *in what case* would dismissal ever be warranted? The Defense does not believe that there has ever been such an egregious case of unlawful pretrial punishment in Army history. This Court needs to send a message that an unlawful order to keep a pretrial detainee in the equivalent of solitary confinement for almost nine months cannot – and will not – be tolerated.

215. In the recently-decided case of *United States v. Zarbatany*, 70 M.J. 169, 175 (C.A.A.F. 2011), the Court of Appeals for the Armed Forces said, in no uncertain terms, that dismissal is a potential remedy for Article 13 violations:

Our inquiry does not end there, however. As previously noted, R.C.M. 305(k) does not limit the availability of other remedies under Article 13, UCMJ. It is axiomatic, for example, that a court with appropriate jurisdiction may remedy an ongoing Article 13, UCMJ, violation through the writ of habeas corpus. No doubt, additional credit under R.C.M. 305(k) is a remedy for violations of Article 13, UCMJ. Indeed, it is a normative remedy and one that has been expressly endorsed in the rules. But this Court has never held that R.C.M. 305(k) is the exclusive remedy for Article 13, UCMJ, violations. To the contrary, our case law explicitly recognizes that certain circumstances may warrant other relief. In *Crawford*, for example, we said that “[w]here we find that maximum custody was arbitrary and unnecessary to ensure an accused’s presence for trial, or unrelated to the security needs of the institution, we will consider appropriate credit or *other relief* to remedy this type of violation of Article 13, UCMJ.” Prior case law has recognized that “other relief” for Article 13, UCMJ, violations may range from disapproval of a bad-conduct discharge, to complete dismissal of the charges, depending on the circumstances. It follows that if a court can dismiss a charge in response to violations of Article 13, UCMJ, as in *Nelson*, a court can do something less by setting aside a discharge.

Therefore, we reiterate this Court’s prior holdings, that although R.C.M. 305(k) is the principal remedy for Article 13, UCMJ, violations, courts must consider other relief for violations of Article 13, UCMJ, where the context warrants.

Id. (citations omitted). See also *United States v. Fulton*, 52 M.J. 767, 769 (A. F. Ct. Crim. App. 2000) (“We conclude that where no other remedy is appropriate, a military judge may, in the interest of justice, dismiss charges because of unlawful pretrial punishment, which violates Article 13”).

216. In *Zarbatany*, the Court of Appeals for the Armed Forces emphasized that relief under Article 13 must be “meaningful.”

This Court first addressed the question of whether meaningful relief is required for violations of Article 13, UCMJ, in *Nelson* In *Nelson*, the appellant pled guilty to various violations of the UCMJ, including unauthorized absence, violating a lawful general order, possession of marijuana, and breach of restriction, and was sentenced to a bad-conduct discharge, forfeiture of all pay and allowances, confinement at hard labor for six months, and reduction to E-1. The appellant was placed in pretrial confinement under circumstances indistinguishable from those of adjudged and sentenced inmates including

identical indoctrination, dress, living, eating, and labor requirements. This Court reversed the board of review, holding that the appellant's pretrial confinement conditions constituted pretrial punishment in violation of Article 13, UCMJ, and due process. The appellant having already served his sentence, the only unexecuted portion of the sentence was the punitive discharge. The appellant requested relief in the form of dismissal of the charges and specifications. Although the court recognized that the board of review was the proper authority for reassessing the appropriateness of the sentence, the Court nonetheless concluded that "modification of the sentence is in order." Specifically, the Court held:

Under these circumstances, were we simply to return the case to the board of review for reassessment of the sentence, we would thereby imply that the bad-conduct discharge may be affirmed. Such a course would deprive the accused of all meaningful relief, and would rightly suggest that this Court is prepared to wink at such grossly illegal treatment of men in pretrial confinement. The disastrous effects of such a situation upon the system of military justice itself are so manifest as to require us to eliminate that possibility.

Since *Nelson*, this Court has sought to "ensure meaningful relief in all future cases" involving violations of Article 13, UCMJ. However, as in the context of appellate due process delay, the question of what relief is due to remedy a violation, if any, requires a contextual judgment, rather than the pro forma application of formulaic rules. Whether meaningful relief has been granted and should be granted will depend on factors such as the nature of the Article 13, UCMJ, violations, the harm suffered by the appellant, and whether the relief sought is disproportionate to the harm suffered or in light of the offenses for which the appellant was convicted.

In light of these cases, we conclude that meaningful relief for violations of Article 13, UCMJ, is required ...

Id. (citations omitted).

217. The Defense believes that simple "X-for-1" credit does not remedy the egregious punishment to which PFC Manning was subjected for almost nine months at Quantico and which sparked both domestic and international outrage. An award of pretrial sentencing credit would simply permit Brig officials, now and in the future, to punish soldiers with absolute impunity. From the Brig's perspective, if a soldier is facing a high enough sentence (e.g. life in prison) there is no reason *not* to subject the soldier to Article 13 punishment. In PFC Manning's case, assume that the Government could prove its case and that PFC Manning were to be sentenced to life in prison, without the possibility of parole. Assume further that PFC Manning was subjected

to 258 days of illegal pretrial punishment²⁶ for which he was awarded 3-for-1 credit (amounting to 774 days). Where would this leave him? In the exact same position that he would be in *without* the sentencing credit. In other words, as long as a soldier is charged with very serious crimes, there is no disincentive for Brig officials to refrain from imposing punishment prior to adjudication.

218. One might argue that Brig officials will refrain from illegally punishing accuseds because they, themselves, might face consequences for subjecting soldiers to Article 13 punishment. The Defense is not aware of any case where confinement officials were called to task for imposing Article 13 punishment on a pretrial detainee. In fact, in *United States v. Anderson* 49 M.J. 575 (N-M. Ct. Crim. App. 1998), the Court learned of an unwritten Marine policy which *per se* amounted to unlawful pretrial punishment and, *in a footnote*, the court encouraged those involved “in the administration of Navy and Marine Corps briggs” to “ensure that decisions whether to place pretrial confines in a maximum-custody status are based on all relevant factors.” *Id.* This footnote hardly screams outrage.

219. This is not the message that we want to send – either to those who punish soldiers unlawfully, or to those soldiers who are unlawfully punished. To allow the deplorable actions of those at Quantico (not to mention those who turned a blind eye to those actions) to go unchecked would make an absolute mockery of the constitutional protections which PFC Manning should be afforded. Article 13 provides that “No person, while being held for trial, may be subjected to punishment or penalty other than arrest or confinement upon the charges pending against him, nor shall the arrest or confinement imposed upon him be any more rigorous than the circumstances require to insure his presence.” This is a codification of the constitutional protection that PFC Manning enjoys by virtue of the Fifth Amendment Due Process Clause. *Bell v. Wolfish*, 441 U.S. 520 (1979). The clause provides that a person shall not be “deprived of life, liberty, or property, without due process of law.” The Due Process Clause does not provide that one can permissibly be deprived of such liberty, so long as a military judge tacks on some illusory credit when sentencing an accused. Confinement officials do not get to trammel on an accused’s constitutional rights and “buy” their way out of it through judge-imposed sentencing credit. If the constitutional protection against pretrial punishment is to mean anything, then all charges against PFC Manning must be dismissed with prejudice.

220. In this case, PFC Manning personally and through his counsel complained for over eight months about the draconian conditions of PFC Manning’s confinement. The Government in this case did nothing about it. In late November 2010, the Government contacted the Brig about the following:

Defense has made a request that PFC Manning’s status be reduced from POI to some other status where he is able to have more time outside or workout in his

²⁶ The Defense concedes that PFC Manning’s initial classification in MAX and under Suicide Risk could have been legitimate based on information known by the Brig at the time. However, continuing to hold PFC Manning in Suicide Risk after 6 August 2010, in contravention of the mental health provider’s recommendation, amounted to pretrial punishment.

cell. My understanding is that his status determination is made based upon a list of factors including his charges, mental health and behavior. Since the Defense has made this request to lower his status it is something that we have to at least address. Is there a lesser level of POI that PFC Manning could be moved to. If the recommendation of the Brig personnel is to have him remain on POI that is fine, we just need to have it addressed to the Defense counsel.

See Attachment 35.

221. The Government's request shows that the Government could not care less whether PFC Manning was actually removed from POI status ("If the recommendation of the Brig personnel is to have him remain on POI that is fine"); it just wanted to protect itself against an Article 13 claim. This is further evidenced when the Government states:

The defense counsel is concerned about PFC Manning's mental and physical health in relation to his small amount of time outside. In order to combat any potential Article 13 issues I would like to get a copy of the logs that show when PFC Manning went outside and how long he stayed there. I know that he usually gets 20 minutes daily but I need to have the logs to show that."

Id. Far from trying to remedy the situation and uphold PFC Manning's constitutional rights, the Government was simply looking for documentation that could be used to "combat any potential Article 13 issues." *Id.*

222. Not only did the Government not do anything about it, *nobody* did anything about it. The Staff Judge Advocate's Office did nothing about it; the Quantico confinement facility did nothing about it; CWO4 Averhart did nothing about it; CWO2 Barnes did nothing about it; Col. Oltman did nothing about it; Col. Choike did nothing about it. How an American soldier could be left to languish in solitary confinement for nine months is incomprehensible. This case has given American justice, and military justice in particular, a bad name.

223. In *United States v. Fulton*, 55 M.J. 88, 90-91 (C.A.A.F. 2001), Chief Justice Crawford stated:

A court should not use its supervisory authority to impose extraordinary remedies to vindicate wrongs unless the person allegedly wronged has sought, and failed to obtain, reasonable, remedial relief through, e.g., command channels, either directly or under Article 138, UCMJ, 10 USC § 938; the Inspector General's Office; or the Chaplaincy. If the command and staff offices have turned a blind eye toward an egregious situation, dismissal of court-martial charges would be warranted as an extraordinary measure.

The quote could not be more apt if spoken about the instant case. Here, PFC Manning had repeatedly sought remedial relief through every avenue available for a period of eight months.

Everyone involved “turned a blind eye toward an egregious situation.” *Id.* This Court cannot also turn a blind eye toward this egregious situation. Accordingly, dismissal is available as an appropriate remedy; indeed, the Defense submits it is the only appropriate remedy. *See also United States v. Zarbatany*, 70 M.J. 169, 172 (C.A.A.F. 2011)(finding illegal pretrial punishment where “specific complaints ... should have put the commander on notice that [the accused] was being illegally punished [but] he didn’t care because he thought the punishment was appropriate for the crimes he had done – overcoming the accused’s presumption of innocence.”).

224. To the extent that this Court does not believe that dismissal of all charges with prejudice is an appropriate remedy (which the Defense submits that it is), the Defense asks that this Court award at least 10-for-1 credit for the egregious Article 13 violations outlined above. In addition, the Defense requests that, depending on PFC Manning’s forum selection, this Court also consider the illegal pretrial punishment in fashioning an appropriate sentence. In *United States v. Fulton*, 52 M.J. 767 (A. F. Ct. Crim. App. 2000), the military judge found that there had been 105 days of illegal pretrial punishment. He determined that he would “factor in [the illegal pretrial punishment] facts and determine an appropriate sentence” and he would order credit for the punishment endured.

225. That at least 10-for-1 credit is warranted is supported by *United States v. Zarbatany*, 70 M.J. 169 (C.A.A.F. 2011). In that case, the accused was in “virtual lockdown” status for a period of 119 days while in pretrial confinement. The accused was denied access to mental health counseling, despite repeated requests. The military judge ultimately awarded 4-for-1 credit, but noted that “the court is very tempted to provide ten-for-one credit solely on the mental health issue considering this installation’s notice of the seriousness of the mental health issues.” In *Zarbatany*, the 4-for-1 credit proved to be “meaningful relief” since the accused was only sentenced to confinement for six months (and thus, the confinement credit exceeded his sentence). *See United States v. Zarbatany*, 2012 WL 215865 (A. F. Ct. Crim. App.); *See also United States v. Tilghman*, 44 M.J. 493 (C.A.A.F. 1996)(awarding ten-for-one credit for illegal pretrial confinement in contravention of judge’s order).

226. In the instant case, the Defense submits that, if this Court is not inclined to dismiss the charges, confinement credit of at least 10-for-1 must be applied against any potential sentence. PFC Manning was held in “virtual lockdown” for more than double the length of time of the accused in *Zarbatany*. Like in *Zarbatany*, the Brig repeatedly ignored serious mental health concerns – that continuing to hold PFC Manning in the equivalent of solitary confinement was detrimental to his mental health. The remedy in *Zarbatany* meant that the accused was immediately released from pretrial confinement upon his conviction. Likewise, any remedy crafted by the Court here must also provide meaningful relief – which the Defense submits would consist of considering the Article 13 issue in sentencing (if PFC Manning proceeds judge alone) and awarding at least 10-for-1 credit.

CONCLUSION

United States v. PFC Bradley E. Manning
Defense Article 13 Motion

227. In light of the foregoing, the Defense requests this Court dismiss all charges with prejudice owing to the flagrant violation of PFC Manning's constitutional right to not be punished prior to trial. Should this Court determine that dismissal is not an appropriate remedy, the Defense requests meaningful relief in the form of at least 10-for-1 sentencing credit for the 258 days PFC Manning inappropriately spent in the equivalent of solitary confinement and, if PFC Manning elects to proceed judge-alone, consideration of the unlawful pretrial punishment issue in sentencing.

Respectfully submitted,



DAVID EDWARD COOMBS
Civilian Defense Counsel

ATTACHMENTS


The Defense respectfully requests that this Court consider the following Attachments:

1. Initial Custody Classification Determination
2. Psychiatrists' Weekly Recommendations
3. Secretary of Navy Instruction (SECNAVINST)1640.9C
4. Special Handling Instructions
5. Observation & Evaluation (O&E) Notes
6. Classification & Assignment (C&A) Board Reviews
7. Capt. Hocter Affidavit #1
8. Capt. Hocter Affidavit #2
9. COL Malone Affidavit
10. Memorandum to CWO4 Averhart About Conditions of Confinement, 5 January 2011
11. Request for Release From Confinement, 13 January 2011
12. COL Carl R. Coffman Jr., Response to Request for Relief From Confinement, 21 January 2011
13. PFC Manning Article 138 Complaint, 19 January 2011
14. PFC Manning Rebuttal to Col. Choike's Response to Article 138 Complaint, 10 March 2011 [hereinafter "Rebuttal to Article 138 Complaint"]
15. CWO4 James Averhart Response to Article 138 Complaint, 24 January 2011
16. CWO4 Averhart Response PFC Manning Rebuttal to Article 138 Complaint, 16 March 2011
17. Col Oltman Response to Article 138 Complaint, 31 January 2011
18. Col. Choike Response to Article 138 Complaint, 1 March 2011
19. Col. Choike Notification of Separate Filing for New Matters Raised, 6 April 2011; Col. Choike Response to PFC Manning Rebuttal to Article 138 Complaint, 8 April 2011; PFC Manning Rebuttal #2 and Request to Consider New Matter Raised, April 10
20. CWO2 Denise Barnes Response to Article 138 Complaint, 7 April 2011
21. CWO2 Barnes Response to PFC Manning Rebuttal to Article 138 Complaint, 10 May 2011
22. CWO5 Abel Galaviz Investigation in Response to Article 138 Complaint and Appointment Memorandum
23. Juan Garcia Final Action on Article 138 Complaint, 13 June 2011
24. Affidavits of Brig Guards Regarding Incident on 18 January 2011
25. Video Recording of Incident at Quantico Brig on 18 January 2011
26. Photo of Suicide Prevention Smock
27. Affidavit of Brig Guard Documenting Incident Where PFC Manning was Trapped in the Suicide Smock
28. Amnesty International Letter
29. Law Professors' Letter
30. Psychologists for Social Responsibility Letter
31. European Leaders' Letter
32. Materials Related to the United Nations Special Rapporteur on Torture, Mr. Juan Méndez
33. Emails between Mr. Coombs and CPT Fein related to: a) PFC Manning's POI status at Quantico; and b) arranging a unmonitored official visit
34. Quantico Brig Policy on Visitation
35. CWO4 Averhart Memorandum to the Office of the Regimental Judge Advocate, 1 December 2010
36. PFC Manning DD510 Grievance Re: Conditions of Confinement
37. Statement from Professor Haney on Solitary Confinement and Other Documentation From the United States Senate Committee on the Judiciary
38. Work Reports
39. Incident Reports
40. 5-minute Observation Notes (sample)
41. Amicus Filing from Psychologists for Social Responsibility

ATTACHMENT 1

INMATE SUMMARY DATA		REPORT DATE (YYYYMMDD) 20100730
1. NAME (Last, First, Middle) MANNING, BRADLEY E.	2. SSN [REDACTED]	3. ID NUMBER [REDACTED]
4. CONTENTS: ADMISSION SUMMARY (Complete 5, 6, and 7) <input checked="" type="checkbox"/> PROGRESS SUMMARY (Complete 7, 8, and 9) <input type="checkbox"/>		
5. CURRENT OFFENSE a. OFFICIAL INFORMATION b. PRISONER'S VERSION 6. PRIOR OFFENSE a. CIVIL b. MILITARY 7. EVALUATION AND PLANNING a. IMPRESSIONS BASED ON PERSONAL HISTORY b. CURRENT MENTAL HEALTH EVALUATION (INITIAL) 8. ASSIGNMENT PROGRAM a. CURRENT CUSTODY b. CURRENT QUARTERS c. CURRENT TRAINING d. CURRENT WORK ASSIGNMENTS e. SPECIAL TREATMENT PROGRAMS f. PLANNED DISPOSITION 9. CONFINEMENT PROGRESS a. NEW INFORMATION b. PROGRESS IN CONFINEMENT c. CURRENT MENTAL HEALTH EVALUATION d. PAROLE OFFICER EVALUATION e. CURRENT OFFENSE a. OFFICIAL INFORMATION: SMD IS CONFINED FOR THE ALLEGED VIOLATIONS OF ARTICLE 128- ASSAULT CONSUMMATED BY BATTERY AND ARTICLE 134- WRONGFUL TRANSMISSION OF DEFENSE INFORMATION. b. PRISONER'S VERSION: SMD CHOOSES NOT TO MAKE A STATEMENT. 6. PRIOR OFFENSE: a. CIVIL: SMD CLAIMS NO PRIOR OFFENSES b. MILITARY: 20100506- SMD CLAIMS 1 NJP FOR VIOLATION OF ARTICLE 128. 7. EVALUATION AND PLANNING a. IMPRESSIONS BASED ON PERSONAL HISTORY: SNP IS OF ABOVE AVERAGE INTELLIGENCE. HE UNDERSTANDS HIS CURRENT SITUATION AND FEELS THAT HE WILL HAVE NO TROUBLES ADJUSTING TO CONFINEMENT. b. CURRENT MENTAL HEALTH EVALUATION (INITIAL): SNP APPEARED HIS STATED AGE OF 22 WAS WELL GROOMED, AND NEAT IN APPEARANCE. SMD WAS ALERT AND ORIENTED TO PERSON PLACE AND TIME. SNP MAINTAINED GOOD EYE CONTACT AND WAS COOPERATIVE THROUGHOUT THE INTERVIEW. SNP SPOKE AT A MODERATE RATE WITH MODERATE VOLUME. SNP STATED THAT HE HAS DEPLOYED TO A COMBAT ZONE, AND HAS NOT BEEN DIAGNOSED WITH PTSD, OR A TBI. SNP DENIED SUICIDAL OR HOMICIDAL THOUGHTS AT THIS TIME. SNP FURTHER DENIED ANY PERCEPTUAL DISTORTIONS OR ESCAPE IDEATIONS AT THIS TIME. BLENIS C.M. GYSGT/E-7/USMC PROGRAMS CHIEF		

CONTINUATION SHEET		REPORT DATE (YYYYMMDD)
1. TITLE OF FORM INMATE SUMMARY DATA		2. DD FORM 2715-2
3. INMATE'S NAME (Last, First, Middle) MANNING, BRADLEY E.	4. SSN [REDACTED]	5. ID NUMBER [REDACTED]
<p>SND is a 22 year old male from Crescent, OK. He was raised in an average middle class family by his mother and father until they divorced in 2000. Following his parents divorce, SND moved to the United kingdom with his mother where he graduated from Tasker Milward VC high school in 2005. After graduating, SND moved back to Oklahoma with his father and was kicked out of the house because his step mother did not like him. In 2006 SND moved to his Aunt's home in Maryland and and took classes at the University of Maryland for two years before dis-enrolling due to lack of financial support. SND enlisted in the U. S. Army in 2008 as an Intel Analyst for GI bill benefits. SND stated that he has one older sister that he was never close to because of their age difference, and he has no contact with his father. SND stated that he was close to his mother but after she had 2 strokes she was not coherent to what was going on around her and his relationship with her became distant. SND states that he has little relations with any of his family except for his Aunt. SND has only been deployed once to a combat theatre and was taken into custody during his deployment. SND is single with no children and claims that he is a woman inside a male body. He states that he has been diagnosed with an anxiety disorder, depression, ADDHD and a gender identity disorder. SNP is confined for 1 specification of article 128 and 1 specification for Article 134 and does not want to speak about his confining offenses. SNP states that he was suicidal previously and did make plans to hang himself but does not currently have suicidal feelings. SND states that his suicidal feelings subsided when he began taking his currently prescribed medications 2-3 weeks ago. SND claims no homicidal or escape ideations at this time and has no questions or concerns at this time.</p> <p>BLENIS C.M. GYSGT/E-7-USMC PROGRAMS CHIEF</p>		

INITIAL CUSTODY CLASSIFICATION				
1. DATE (YYYYMMDD) 20100729		2. INTERVIEWER NAME HANKS, R.W./CPL		3. (X one) <input checked="" type="checkbox"/> DETAINED <input type="checkbox"/> ADJUDGED
4. IDENTIFICATION				
a. PRISONER NAME (Last, First, Middle) MANNING, BRADLEY E.		b. SSN [REDACTED]	c. GRADE E-3	d. SEX (X one) <input checked="" type="checkbox"/> MALE <input type="checkbox"/> FEMALE
5. ADMINISTRATIVE FACTORS (X as applicable)				NO YES
a. SUICIDE RISK				<input type="checkbox"/> <input checked="" type="checkbox"/>
b. PHYSICAL HEALTH PROBLEM				<input type="checkbox"/> <input checked="" type="checkbox"/>
c. MENTAL HEALTH PROBLEM				<input type="checkbox"/> <input checked="" type="checkbox"/>
d. SPECIAL QUARTERS				<input type="checkbox"/> <input checked="" type="checkbox"/>
6. MANAGEMENT FACTORS (Enter point values)				POINTS
a. OFFENSE OFFENSE SEVERITY = 1 - 8				1
b. SUBSTANCE ABUSE YES x 1 = 1 YES x 2 = 2 YES x 3 = 3 YES x 4 = 4				0
c. PENDING CHARGES/WARRANTS/DETAINERS NO = 0 YES = (Enter points from Offense Severity Scale)				0
d. HISTORY OF VIOLENCE QUESTION (2) - YES = 2 QUESTION (3) - YES = 4 QUESTION (4) - YES = 6 QUESTION (5) - YES = 8				4
e. HISTORY OF ESCAPE NO = 0 YES = 6				0
f. LENGTH OF SENTENCE TIME REMAINING DETAINEE OR 0 - 90 DAYS = 0 91 DAYS - 1 YEAR = 1 1 + TO 3 YEARS = 2 3 + TO 5 YEARS = 3 5 + TO 10 YEARS = 5 10 + YEARS = 7 LIFE/DEATH = 8				0
g. TOTAL POINTS				5
7. SCREENING DECISION (X one)				
<input type="checkbox"/> MEDIUM-IN (0 - 11 Points)		<input checked="" type="checkbox"/> MAXIMUM (12 + Points)		
8. FINAL DECISION				
a. OVERRIDE (X one)				
<input type="checkbox"/> NO	<input checked="" type="checkbox"/> YES -	<input type="checkbox"/> CODE	<input type="checkbox"/> NOT APPLICABLE (Policy)	
b. RATIONALE SND WAS UNDER CONSTANT SUICIDE WATCH PRIOR TO BEING CONFINED IN THIS FACILITY FOR MULTIPLE MONTHS.				
9. DECIDING AUTHORITY				
a. NAME HANKS, R. W.	b. GRADE E-4	c. TITLE DUTY BRIG SUPERVISOR	d. SIGNATURE 	
10. CUSTODY DECISION MAX/IND /SR				

CLASSIFICATION WORKSHEET			
11. DATE (YYYYMMDD) 20100729	12. TIME 2200	13. INTERVIEWER NAME HANKS, R. W./CPL	14. (X one) <input checked="" type="checkbox"/> DETAINED <input type="checkbox"/> ADJUDGED
15. ADMINISTRATIVE FACTORS			
a. SUICIDE RISK			
(1) HOW DO YOU FEEL ABOUT BEING HERE? SND STATES THAT HE FEELS CONFUSED			
(2) HAVE YOU EVER THOUGHT ABOUT COMMITTING SUICIDE? (X)			NO YES <input type="checkbox"/> <input checked="" type="checkbox"/>
(3) DID YOU MAKE A PLAN TO COMMIT SUICIDE?			<input type="checkbox"/> <input checked="" type="checkbox"/>
(4) HAVE YOU EVER ATTEMPTED SUICIDE? (If Yes, when and how?)			<input checked="" type="checkbox"/> <input type="checkbox"/>
b. PHYSICAL HEALTH PROBLEM			
(1) DO YOU HAVE A CONTAGIOUS DISEASE? (If Yes, what?)			NO YES <input checked="" type="checkbox"/> <input type="checkbox"/>
(2) DO YOU HAVE ANY PHYSICAL PROBLEMS? (If Yes, what?)			<input checked="" type="checkbox"/> <input type="checkbox"/>
(3) ARE YOU TAKING ANY MEDICATIONS? (If Yes, give reason) ANXIETY AND DEPRESSION			<input type="checkbox"/> <input checked="" type="checkbox"/>
c. MENTAL HEALTH			
(1) DO YOU HAVE ANY MENTAL PROBLEMS? (If Yes, what?) GENERALIZED ANXIETY DISORDER, DEPRESSION, GENDER IDENTITY DISORDER, ADDHD			NO YES <input type="checkbox"/> <input checked="" type="checkbox"/>
(2) WERE YOU EVER HOSPITALIZED FOR MENTAL PROBLEMS? (If Yes, when?)			<input checked="" type="checkbox"/> <input type="checkbox"/>
d. SPECIAL QUARTERS			
TO YOUR KNOWLEDGE, DO YOU HAVE ANY ENEMIES IN THIS FACILITY? (If Yes, who and why?)			NO YES <input checked="" type="checkbox"/> <input type="checkbox"/>

CLASSIFICATION WORKSHEET (Continued)

16. MANAGEMENT FACTORS

a. WHAT CHARGE(S) ARE YOU CONFINED FOR?
128, 134

b. SUBSTANCE ABUSE (X)

(1) HAVE YOU EVER USED DRUGS OR ALCOHOL?

DRUGS

NO YES

ALCOHOL

(2) HAVE YOU USED DRUGS/ALCOHOL IN THIS ENLISTMENT?

DRUGS

ALCOHOL

(If answer to both (1) and (2) is No, skip to 16.c. If either (1) or (2) is Yes, continue lines (3) through (6).)

(3) HAVE YOU EVER BEEN DISCIPLINED IN THE SERVICE OR FIRED FROM A JOB BECAUSE OF DRUG OR ALCOHOL USE?

(4) HAS DRUG/ALCOHOL USE EVER LED TO FAMILY PROBLEMS OR CONFLICTS?

(5) HAVE YOU EVER BEEN ARRESTED WHILE UNDER THE INFLUENCE OF DRUGS OR ALCOHOL?

(6) HAS USE OF DRUGS/ALCOHOL RESULTED IN OTHER PROBLEMS, SUCH AS BLACKOUTS OR LOSS OF FRIENDS?

c. PENDING CHARGES/WARRANTS/DETAINERS

DO YOU HAVE ANY OUTSTANDING WARRANTS/DETAINERS OR ADDITIONAL PENDING CHARGES? (If Yes, explain)

d. HISTORY OF VIOLENCE (X)

(1) HAVE YOU EVER ASSAULTED ANOTHER PERSON?

(If No, skip to 16.e. If Yes, answer (2) through (7).)

(2) NON-PHYSICAL ALTERCATION

(3) ASSAULT WITHOUT A WEAPON

(4) ASSAULT WITH A WEAPON

(5) MULTIPLE ASSAULTS

(6) AGE AT TIME OF INCIDENT(S)

22

(7) EXPLAIN INCIDENT(S)

PUNCHED A FELOW SOLDIER FOR NO REASON

e. HISTORY OF ESCAPE (X as appropriate. Assign 6 points in Item 6.e. If answer is Yes to any of the following questions.)

(1) HAVE YOU EVER ESCAPED OR ATTEMPTED TO ESCAPE CONFINEMENT?

(2) WERE YOU EVER APPREHENDED ON A PAROLE VIOLATION?

(3) HAVE YOU EVER RESISTED ARREST?

(4) DID YOU EVER INITIATE A PERIOD OF UNAUTHORIZED ABSENCE WHILE OTHER CHARGES WERE PENDING?

CLASSIFICATION WORKSHEET (Continued)

17. INTERVIEWER'S IMPRESSION

SND IS A 22 YEAR OLD SINGLE SOLDIER WITH AVERAGE INTELLIGENCE.
SND WAS COOPERATIVE DURING THE INTERVIEW.
SND WAS TALKATIVE DURING THE INTERVIEW.
SND DOES APPEAR TO ACCEPT RESPONSIBILITY FOR HIS ACTIONS.
SND HAS ADEQUATE LEVEL OF SELF AWARENESS.
SND HAS AN AVERAGE LEVEL OF TOLERANCE FOR STRESS.
SND IS NOT AWARE OF ANY KNOWN ENEMIES IN THE BRIG.
SND SHOWS NO SIGNS OF DEPRESSION.
SND CLAIMS HE DOES NOT WANT TO HARM HIMSELF.
SND DENIES THAT HE IS SUICIDAL.

INMATE BACKGROUND SUMMARY SECTION 1 - PERSONAL DATA				REPORT DATE (YYYYMMDD) 20100729
1. NAME (Last, First, Middle) MANNING, BRADLEY EDWARD		2. SSN 445 98 9504		3. ID NUMBER 10075
4. MAIDEN NAME N/A		5. NICKNAME N/A		6. ALIAS(ES) BRAD
7. AGE 22	B. SEX: <input checked="" type="checkbox"/> MALE <input type="checkbox"/> FEMALE	9. PLACE OF BIRTH (City, County and State) CRESCENT, OKLAHOMA		10. DATE OF BIRTH (YYYYMMDD) 1987
11. RACE (X one or more) <input type="checkbox"/> AMERICAN INDIAN/ ALASKA NATIVE <input type="checkbox"/> ASIAN <input type="checkbox"/> BLACK OR AFRICAN AMERICAN		<input checked="" type="checkbox"/> NATIVE HAWAIIAN OR OTHER PACIFIC ISLANDER <input checked="" type="checkbox"/> WHITE <input type="checkbox"/> DECLINE TO RESPOND		12. ETHNICITY (X one) <input type="checkbox"/> HISPANIC OR LATINO <input checked="" type="checkbox"/> NOT HISPANIC OR LATINO <input type="checkbox"/> DECLINE TO RESPOND
13. NATIONALITY AMERICAN		14. RELIGION NONE		
15. HEIGHT 5'4" 8in	16. WEIGHT 115lb	17. IDENTIFYING MARKS (Scars, tattoos, etc.) (If Yes, see attached) <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES		
18. HAIR COLOR (X one) <input type="checkbox"/> AUBURN <input type="checkbox"/> BROWN <input type="checkbox"/> BLACK <input type="checkbox"/> GRAY <input checked="" type="checkbox"/> BLOND <input type="checkbox"/> RED		19. EYE COLOR (X one) <input type="checkbox"/> SILVER <input type="checkbox"/> BLACK <input type="checkbox"/> WHITE <input checked="" type="checkbox"/> BLUE <input type="checkbox"/> BALD <input type="checkbox"/> BROWN <input type="checkbox"/> GREEN <input type="checkbox"/> VIOLET <input type="checkbox"/> GRAY <input type="checkbox"/> HAZEL		
20. GANG ASSOCIATION: <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES		GANG NAME/LOCATION (City, State) N/A		
21. CULT/EXTREMIST ASSOCIATION: <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES		CULT NAME/LOCATION (City, State) N/A		
22. DOES YOUR FAMILY KNOW YOUR WHEREABOUTS: <input type="checkbox"/> NO <input checked="" type="checkbox"/> YES				
23. DO THEY NEED TO BE NOTIFIED: <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES (If Yes, Name, Relationship, Phone) N/A				
24. a. HAVE YOU EVER TRIED TO COMMIT SUICIDE? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES		b. DO YOU FEEL SUICIDAL AT THIS TIME? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES		
25. ARE THERE ANY ISSUES THAT NEED IMMEDIATE MEDICAL ATTENTION? (Communicable diseases or disabilities) N/A				
26. ARE THERE ANY ISSUES THAT NEED IMMEDIATE ATTENTION? N/A				
27. a. FORM COMPLETED BY: MANNING, BRADLEY E		b. DATE (YYYYMMDD) 20100729		c. TIME
28. ACTIONS TAKEN IF NECESSARY:				
29. a. ACTION TAKEN BY:				
b. DATE (YYYYMMDD)		c. TIME		

SECTION 2 - MILITARY BACKGROUND				REPORT DATE (YYYYMMDD)
1. NAME (Last, First, Middle) MANNING, BRADLEY EDWARD		2. SSN 445989504	3. ID NUMBER 10075	
4. BRANCH OF SERVICE <input type="checkbox"/> AIR FORCE <input checked="" type="checkbox"/> ARMY <input type="checkbox"/> NAVY <input type="checkbox"/> MARINES <input type="checkbox"/> COAST GUARD <input type="checkbox"/> RESERVES				
5. MILITARY UNIT HHC, 2BCT, 10MMN		6. MILITARY INSTALLATION FORT DRUM, NY		
7. HOME OF RECORD (City, State): POTOMAC, MARYLAND	8. ACTIVE DUTY BASE DATE (YYYYMMDD) 20080828	9. DATE ENTERED CURRENT TERM (YYYYMMDD) 20071002		
10. END OF ACTIVE DUTY OBLIGATION (YYYYMMDD) 2011001		11. TOTAL ACTIVE LENGTH OF SERVICE 24585 10 MONTHS		
12. METHOD OF ENTRY (Choose one): <input type="checkbox"/> INDUCTION <input checked="" type="checkbox"/> INITIAL ENLISTMENT <input type="checkbox"/> REENLISTMENT <input type="checkbox"/> DIRECT APPOINTMENT				
13. HIGHEST PAYGRADE ATTAINED: E-4		14. CURRENT MOS/RATE OR SPECIALTY: 35F		15. PREVIOUS DISCHARGE RECEIVED (Type and Date - YYYYMMDD): N/A
16. PRIOR SERVICE <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES		16. PRIOR BRANCH OF SERVICE N/A		<input type="checkbox"/> ARMY <input type="checkbox"/> NAVY <input type="checkbox"/> MARINES <input type="checkbox"/> COAST GUARD <input type="checkbox"/> RESERVES
17. MILITARY AWARDS AND DECORATIONS				
18. MAJOR MILITARY SCHOOLS ATTENDED				
COURSE TITLE N/A		COURSE LOCATION N/A		DATE COMPLETED (YYYYMMDD) N/A
19. PREVIOUS MILITARY OFFENSES				
ARTICLE 15 OR COURT MARTIAL ASSAULT	DATE OF INCIDENT OR ACTION (YYYYMMDD) 20100506	OFFENSES ART #112	DISPOSITION COMPLETE	CONFINEMENT (Y/N) N
20. MILITARY HISTORY NARRATIVE a. GENERAL MILITARY SERVICE BACKGROUND BASIC TRAINING 2007 INTEL ANALYST TRAINING 2008 TWO JOINT READINESS TRAINING CENTER (JRTC) ROTATIONS				

SECTION 3 - CIVILIAN BACKGROUND															REPORT DATE (YYYYMMDD)				
1. NAME (Last, First, Middle) MANNING, BRADLEY EDWARD										2. SSN 445 98 9504			3. ID NUMBER 10075						
4. CIVILIAN EDUCATION (List High School, Colleges, and Trade Schools)																			
NAME AND ADDRESS OF SCHOOL a.		AGE b.	DATE ENTERED (YYYYMMDD) c.		GRADE(S) COMPLETED d.		DEGREE e.		DATE (YYYYMMDD) f.										
PARKER DELAWARE VC, OK		13	2001		8-12		N/A		2005										
CRESCENT. PUBLIC Sch		5	1993		1-7		N/A		2001										
UNIVERSITY OF MARYLAND		18	2006		13-14		N/A		2007										
9. HIGHEST GRADE COMPLETED		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
10. REASON FOR LEAVING SCHOOL		N/A																	
5. CIVILIAN EMPLOYMENT																			
NAME AND CITY/STATE OF EMPLOYER a.		TYPE OF WORK b.		SALARY c.		FULL OR PART TIME d.		DATES FROM/TO (YYYYMMDD) e.		REASON FOR LEAVING f.									
ZOTO INC, OKC, OK		COMPUTER		\$50K		FULL		2005-2006		INTERNSHIP									
STARBUCKS		FOOD SERVICE		\$28K		FULL		2006-2007		ENLISTED									
N/A		N/A		N/A		N/A		N/A		N/A									
6. CIVILIAN ARREST RECORD																			
OFFENSE (Exclude minor traffic offenses - include DUI/DWI) a.		PLACE OF ARREST b.		DATE (YYYYMMDD) c.		DISPOSITION OR SENTENCE d.		CONFINED (Y/N) e.											
N/A		N/A		N/A		N/A		N/A											
N/A		N/A		N/A		N/A		N/A											
N/A		N/A		N/A		N/A		N/A											
7. PERSONAL HISTORY																			
a. EDUCATIONAL BACKGROUND																			
b. OCCUPATIONAL BACKGROUND																			
c. GENERAL BACKGROUND																			
<p>a) PHYSICS MAJOR, UNIVERSITY OF MARYLAND 2006-2007</p> <p>b) COMPUTER PROGRAMMER, INTEL ANALYST</p> <p>c) ACTIVIST, POLITICAL JUNKIE</p>																			

SECTION 4 - FAMILY BACKGROUND			REPORT DATE (YYYYMMDD) 2010 07 29	
1. NAME (Last, First, Middle) MANNING, BRADLEY EDWARD		2. SSN 445 X 9504	3. ID NUMBER 100 75	
4. MARITAL STATUS CODES (Current)				
<input type="checkbox"/> 1 MARRIAGE ANNULLED	<input type="checkbox"/> 3 INTERLOCUTORY	<input checked="" type="checkbox"/> 5 MARRIED	<input type="checkbox"/> 7 WIDOWED	
<input type="checkbox"/> 2 DIVORCED	<input type="checkbox"/> 4 LEGALLY SEPARATED	<input checked="" type="checkbox"/> 6 NEVER MARRIED		
5. LIVING STATUS:				
<input type="checkbox"/> A) ONE WITH RELATIVE	<input type="checkbox"/> SINGLE PARENT/HEAD OF HOUSEHOLD COHABITING	<input type="checkbox"/> WITH SPOUSE MILITARY QUARTERS	<input type="checkbox"/> WITH PARENTS OTHER	
		DATE (YYYYMMDD): 20100729		
6. INMATE'S HOME ADDRESS (Street, City, State and ZIP Code) 1492 SELWORTHY ROAD, POTOMAC, MD 20854			7. NUMBER OF FAMILY MEMBERS	
8. FAMILY				
NAME a.	RELATIONSHIP (1st Spouse, Children, and Parents) b.	ADDRESS (Street, City, State) c.	TELEPHONE NUMBER (Include Area Code) d.	AGE e.
SUSAN MANNING	MOTHER	UNITED KINGDOM	—	54
BRADLEY MANNING	FATHER	OKLAHOMA	—	65
DEBRA ALSTINE	AUNT	POTOMAC, MARYLAND	301 731 7816	60
CASEY MOTOR	SISTER	OKLAHOMA	—	33
9. NEXT OF KIN				
a. NAME (Last, First, Middle Initial)	b. ADDRESS (Street, City, State, ZIP Code)	c. TELEPHONE (Incl. Area Code)		
VAN ALSTINE, DEBRA	1492 SELWORTHY ROAD, POTOMAC, MARYLAND 20854	301 731 7816		
10. EMERGENCY CONTACT (If Next of Kin, indicate SAME).				
a. NAME (Last, First, Middle Initial)	b. ADDRESS (Street, City, State, ZIP Code)	c. TELEPHONE (Incl. Area Code)		
SAME	N/A	N/A		
11. LENGTH OF RESIDENCY AT CURRENT ADDRESS: YEARS <u>3</u> MONTHS <u>2</u>		12. LENGTH OF RESIDENCY IN THE LOCAL AREA: YEARS <u>3</u> MONTHS <u>2</u>		13. LENGTH OF TIME APART FROM PARENTS: YEARS <u>5</u> MONTHS <u>0</u>
				14. HAS ANY FAMILY MEMBER EVER BEEN CONVICTED OF A FELONY? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES <input type="checkbox"/> UNKNOWN
15. HAVE YOU EVER BEEN REFERRED TO OR PARTICIPATED IN A MILITARY FAMILY ADVOCACY PROGRAM OR CHILDO/SPOUSE PROTECTIVE SERVICES AGENT?				
<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES (If Yes, state where, when and reason.)				
16. ARE YOU PRESENTLY UNDER A COURT ORDER CONCERNING FAMILY/OTHERS (restraint order, no-contact order)?				
<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES (If Yes, give dates, persons, conditions and name of jurisdiction.)				
17. FAMILY NARRATIVE ENVIRONMENTAL INFORMATION:				
a. GENERAL FAMILY BACK GROUND				
b. IF APPLICABLE INCLUDE:				
- STATUS OF MARRIAGE				
- FINANCIAL ARRANGEMENTS FOR FAMILY				

Few Family Ties

SECTION 5 - MENTAL/PHYSICAL HEALTH BACKGROUND		REPORT DATE (YYYYMMDD)
1. NAME (Last, First, Middle) MANNING, BRADLEY EDWARD	2. SSN 44598 9004	3. ID NUMBER 10075
4. HOW WOULD YOU DESCRIBE YOUR CURRENT PHYSICAL CONDITION: <input type="checkbox"/> EXCELLENT <input checked="" type="checkbox"/> GOOD <input type="checkbox"/> FAIR <input type="checkbox"/> POOR		
5. LIST ANY PAST SERIOUS ILLNESS, INJURY OR PHYSICAL AILMENT YOU HAVE SUFFERED OR ARE CURRENTLY SUFFERING AND DATE OF OCCURRENCE: N/A		
6. DO YOU HAVE A PHYSICAL HANDICAP: <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES (Explain)		
7. LAST HIV TEST DATE (YYYYMMDD) 2009 09 25		
8. HAVE YOU EVER BEEN HOSPITALIZED IN A MENTAL INSTITUTION: <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES (State facility, reason and date)		
9. HAVE YOU EVER CONSIDERED SUICIDE: <input type="checkbox"/> NO <input checked="" type="checkbox"/> YES (Explain) ALWAYS PLANNING, NEVER ACTING		
10. HAVE YOU EVER ATTEMPTED SUICIDE: <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES (Explain)		
11. PERSONAL HABITS ALCOHOL USE CLAIMED: <input checked="" type="checkbox"/> NONE <input type="checkbox"/> OCCASIONAL <input type="checkbox"/> MODERATE <input type="checkbox"/> HEAVY <input type="checkbox"/> OTHER (Explain) WAS ALCOHOL ABUSE APPARENT? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES NEA HAVE YOU EVER RECEIVED ALCOHOL TREATMENT? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES (State facility and date) DRUG USE CLAIMED: <input checked="" type="checkbox"/> NONE <input type="checkbox"/> OCCASIONAL <input type="checkbox"/> MODERATE <input type="checkbox"/> HEAVY <input type="checkbox"/> OTHER (Explain) DRUG USE APPARENT? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES HAVE YOU EVER RECEIVED DRUG TREATMENT? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES (State facility and date) GAMBLING. <input type="checkbox"/> FREQUENTLY <input type="checkbox"/> OCCASIONALLY <input checked="" type="checkbox"/> NEVER		
12. MENTAL/PHYSICAL HEALTH BACKGROUND INFORMATION a. SPORTS AND HOBBIES b. SPECIAL SKILLS/ABILITIES c. NOTES (Is there anything on this form which is not covered that you feel should be brought to the attention of the confining facility?) COMPUTERS, TECHNOLOGY, POLITICS, HISTORY, FINANCE		

ATTACHMENT 2

SUICIDE RISK / PREVENTION OF INJURY ASSIGNMENT REVIEW

From: Captain Hocter
To: Classification and Assignment Board

20100730
DATE

MANNING, BRADLEY E.

Last, First, Middle Init.

SSN

RCN

1. The following action is recommended for subject:

Custody:
MAXIMUM

Squad Bay:
SQ-1

Job:
INDOC / SR

☒ Inmate DOES pose a threat to himself

☐ Inmate DOES NOT pose a threat to himself

☒ Further mental evaluation IS necessary

☐ Further mental evaluation is NOT necessary

☒ Inmate DOES NEED to be segregated from general population

☐ Inmate DOES NOT need to be segregated from general population

☒ Inmate has a LOW TOLERANCE of frustration / stress

☐ Inmate has an AVERAGE TOLERANCE of frustration / stress

☐

☐

Medical Officer's Remarks:

*These remarks on suicide prevention, ended at
only a few days. But safety violation, and action*

WJH
William J. Hocter, MD
CAPT MC USN
Psychiatrist

SUICIDE RISK / PREVENTION OF INJURY ASSIGNMENT REVIEW

From: Captain Hocter
To: Classification and Assignment Board

20100806

DATE

MANNING, BRADLEY E.

Last, First, Middle Init.

SSN

RCN

1. The following action is recommended for subject:

Custody:
MAXIMUM

Squad Bay:
SQ-1

Job:
SR

☒ Inmate DOES pose a threat to himself

☐ Inmate DOES NOT pose a threat to himself

☒ Further mental evaluation IS necessary

☐ Further mental evaluation is NOT necessary

☒ Inmate DOES NEED to be segregated from general population

☐ Inmate DOES NOT need to be segregated from general population

☒ Inmate has a LOW TOLERANCE of frustration / stress

☐ Inmate has an AVERAGE TOLERANCE of frustration / stress

☐

☐

Medical Officer's Remarks:

PT not currently suicidal & is at lower risk than when he was here. Still carries substantial risk. I concur with my consultant, Col Miller, that decrease in precautions from suicide precautions to prevention of injury precautions (25 min checks). Recommend he not have access to belts, booties, urine, freshbag, etc.

William J. Hocter, MD
CAPT MC USN
Psychiatrist

SUICIDE RISK / PREVENTION OF INJURY ASSIGNMENT REVIEW

From: Captain Hocter
To: Classification and Assignment Board

20100820

DATE

MANNING, BRADLEY E.

Last, First, Middle Init.

SSN

RCN

1. The following action is recommended for subject:

Custody:
MAXIMUM

Squad Bay:
SQ-1

Job:
SR

- | | |
|--|---|
| <input checked="" type="checkbox"/> Inmate DOES pose a threat to himself (Decreased from before) | <input type="checkbox"/> Inmate DOES NOT pose a threat to himself |
| <input checked="" type="checkbox"/> Further mental evaluation IS necessary | <input type="checkbox"/> Further mental evaluation is NOT necessary |
| <input type="checkbox"/> Inmate DOES NEED to be segregated from general population | <input type="checkbox"/> Inmate DOES NOT need to be segregated from general population |
| <input type="checkbox"/> Inmate has a LOW TOLERANCE of frustration / stress | <input checked="" type="checkbox"/> Inmate has an AVERAGE TOLERANCE of frustration / stress |
| <input type="checkbox"/> | <input type="checkbox"/> |

Medical Officer's Remarks:

Maintain Prevent
of Injury. Thanks!

William J. Hocter, MD
CAPT MC USN
Psychiatrist

SUICIDE RISK / PREVENTION OF INJURY ASSIGNMENT REVIEW

From: Captain Hocter
To: Classification and Assignment Board

20100827

DATE

MANNING, BRADLEY E.

Last, First, Middle Init.

SSN

RCN

I. The following action is recommended for subject:

Custody:
MAXIMUM

Squad Bay:
SQ-1

Job:
POI

☐ Inmate DOES pose a threat to himself

☒ Further mental evaluation IS necessary

☐ Inmate DOES NEED to be segregated from general population

☐ Inmate has a LOW TOLERANCE of frustration / stress

☐

☒ Inmate DOES NOT pose a threat to himself

☐ Further mental evaluation is NOT necessary

☒ Inmate DOES NOT need to be segregated from general population

☒ Inmate has an AVERAGE TOLERANCE of frustration / stress

☐

Medical Officer's Remarks:

It under my care and continues to improve. He has not reported any suicidal thoughts and guards have not reported any physical problems. I have discussed with the care with my consultant, Col. Nelson, who concurs that it is now safe to remove him from POT status due to his decreased level of risk. My understanding of Bay regulations is that all detainees on max status are checked every 15 minutes, that should be sufficient. I will continue to follow him.

William J. Hocter, MD
CAPT MC USN
Psychiatrist

SUICIDE RISK / PREVENTION OF INJURY ASSIGNMENT REVIEW

From: Captain Hocter
To: Classification and Assignment Board

20100903
DATE

MANNING, BRADLEY E.
Last, First, Middle Init.

SSN

RCN

1. The following action is recommended for subject:

Custody:
MAXIMUM

Squad Bay:
SQ-1

Job:
POI

☐ Inmate DOES pose a threat to himself

☒ Inmate DOES NOT pose a threat to himself

☒ Further mental evaluation IS necessary

☐ Further mental evaluation is NOT necessary

☒ Inmate DOES NEED to be segregated from general population

☐ Inmate DOES NOT need to be segregated from general population

☐ Inmate has a LOW TOLERANCE of frustration / stress

☐ Inmate has an AVERAGE TOLERANCE of frustration / stress

☐

☐

Medical Officer's Remarks:

Reassigned D/C POI again, ok for
0-15 minute checks (regular for max status), not
suicidal

[Signature]
William J. Hocter, MD
CAPT MC USN
Psychiatrist

SUICIDE RISK, PREVENTION OF INJURY ASSIGNMENT REVIEW

From: Captain Hocter, W.J.
To: Classification and Assignment Board

20100910

DATE

MANNING, BRADLEY E.

Last, First, Middle Init.

SSN

RCN

1. The following action is recommended for subject:

Custody:
MAXIMUM

Squad Bay:
SQ-1

Job:
POI

☐ Inmate DOES pose a threat to himself

☒ Inmate DOES NOT pose a threat to himself

☒ Further mental evaluation IS necessary

☐ Further mental evaluation is NOT necessary

☐ Inmate DOES NEED to be segregated from general population

☒ Inmate DOES NOT need to be segregated from general population

☐ Inmate has a LOW TOLERANCE of frustration / stress

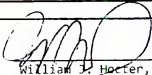
☒ Inmate has an AVERAGE TOLERANCE of frustration / stress

☐

☐

Medical Officer's Remarks:

Continues to improve, no SI
Continue to recommend removal from POI, & is min
in cell


William J. Hocter, MD
CAPT MC USN
Psychiatrist

SUICIDE RISK / PREVENTION OF INJURY ASSIGNMENT REVIEW

From: Captain Hocter, W.J.
To: Classification and Assignment Board

20100917
DATE

MANNING, BRADLEY E.
Last, First, Middle Init.

SSN

RCN

1. The following action is recommended for subject:

Custody:
MAXIMUM

Squad Bay:
SQ-1

Job:
POI

☒ Inmate DOES pose a threat to himself

☐ Inmate DOES NOT pose a threat to himself

☒ Further mental evaluation IS necessary

☐ Further mental evaluation is NOT necessary

☐ Inmate DOES NEED to be segregated from general population

☐ Inmate DOES NOT need to be segregated from general population

☐ Inmate has a LOW TOLERANCE of frustration / stress

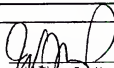
☐ Inmate has an AVERAGE TOLERANCE of frustration / stress

☐

☐

Medical Officer's Remarks:

*At point low intake risk which
will be down to low risk. He is not
not a threat. Inmate is not a threat
to the staff nor is he a threat to himself.
He is a low risk inmate.*


William J. Hocter, MD
CAPT MC USN
Psychiatrist

SUICIDE RISK / PREVENTION OF INJURY ASSIGNMENT REVIEW

From: Captain Hocter, W.J.
To: Classification and Assignment Board

20100924
DATE

MANNING, BRADLEY E.
Last, First, Middle Init.

SSN

RCN

I. The following action is recommended for subject:

Custody:
MAXIMUM

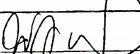
Squad Bay:
SQ-1

Job:
POI

- | | |
|---|--|
| <input type="checkbox"/> Inmate DOES pose a threat to himself | <input checked="" type="checkbox"/> Inmate DOES NOT pose a threat to himself |
| <input checked="" type="checkbox"/> Further mental evaluation IS necessary | <input type="checkbox"/> Further mental evaluation is NOT necessary |
| <input checked="" type="checkbox"/> Inmate DOES NEED to be segregated from general population | <input type="checkbox"/> Inmate DOES NOT need to be segregated from general population |
| <input checked="" type="checkbox"/> Inmate has a LOW TOLERANCE of frustration / stress | <input type="checkbox"/> Inmate has an AVERAGE TOLERANCE of frustration / stress |
| <input type="checkbox"/> | <input type="checkbox"/> |

Medical Officer's Remarks:

Continue to follow regularly. Continue to have benign mental status exam. No suicide risk. No psychiatric indication for POI status at this time. May class to regular max security status.

 CAPT MC USN
William J. Hocter, MD
CAPT MC USN
Psychiatrist

SUICIDE RISK / PREVENTION OF INJURY ASSIGNMENT REVIEW

From: Colonel Malone, R. D.
To: Classification and Assignment Board

20

HANNING, BRADLEY E.

Last, First, Middle Init.

SSN

RCN

I. The following action is recommended for subject:

Custody:
MAXIMUM

Squad Bay:
SQ-1

Job:
POI

☐ Inmate DOES pose a threat to himself

☒ Inmate DOES NOT pose a threat to himself

☒ Further mental evaluation IS necessary

☐ Further mental evaluation is NOT necessary

☐ Inmate DOES NEED to be segregated from general population

☒ Inmate DOES NOT need to be segregated from general population *psychiatrically*

☐ Inmate has a LOW TOLERANCE of frustration / stress

☒ Inmate has an AVERAGE TOLERANCE of frustration / stress

☐

☐

Medical Officer's Remarks:

*Continue to improve
No change to meds or follow-up requirements
Low-mod risk of self-harm, improved
Stressors include legal uncertainty and limitations of confinement*

Ricky Malone MD
Ricky D. Malone, MD
COL MC USA
Psychiatrist

SUICIDE RISK / PREVENTION OF INJURY ASSIGNMENT REVIEW

From: Captain Hocter, W.J.
To: Classification and Assignment Board

20101015

DATE

MANNING, BRADLEY E.

Last, First, Middle Init.

SSN

RCN

1. The following action is recommended for subject:

Custody:
MAXIMUM

Squad Bay:
SQ-1

Job:
POI

☐ Inmate DOES pose a threat to himself

☒ Inmate DOES NOT pose a threat to himself

☒ Further mental evaluation IS necessary

☐ Further mental evaluation is NOT necessary

☒ Inmate DOES NEED to be segregated from general population

☐ Inmate DOES NOT need to be segregated from general population

☐ Inmate has a LOW TOLERANCE of frustration / stress

☒ Inmate has an AVERAGE TOLERANCE of frustration / stress

☐

☐

Medical Officer's Remarks:

Still good from psychiatric perspective to come off POI. No further action needed.

[Signature]
William J. Hocter, MD
CAPT MC USN
Psychiatrist

SUICIDE RISK / EVENTION OF INJURY ASSIGNMENT REVIEW

From: Captain Hocter, W.J.
To: Classification and Assignment Board

20101022
DATE

MANNING, BRADLEY E.

Last, First, Middle Init.

SSN

RCN

1. The following action is recommended for subject:

Custody:
MAXIMUM

Squad Bay:
SQ-1

Job:
POI

☐ Inmate DOES pose a threat to himself

☒ Inmate DOES NOT pose a threat to himself

☒ Further mental evaluation IS necessary

☐ Further mental evaluation is NOT necessary

☐ Inmate DOES NEED to be segregated from general population

☒ Inmate DOES NOT need to be segregated from general population

☐ Inmate has a LOW TOLERANCE of frustration / stress

☒ Inmate has an AVERAGE TOLERANCE of frustration / stress

☐

☐

Medical Officer's Remarks:

Pt remains cooperative with treatment
It is not suicidal. He is psychiatrically
fit to be taken off POC status.

William J. Hocter, MD
CAPT MC USN
Psychiatrist

SUICIDE RISK / PREVENTION OF INJURY ASSIGNMENT REVIEW

From: Captain Hocter, W.J.
To: Classification and Assignment Board

20101029

DATE

MANNING, BRADLEY E.

Last, First, Middle Init.

SSN

RCN

1. The following action is recommended for subject:

Custody:
MAXIMUM

Squad Bay:
SQ-1

Job:
POI

☐ Inmate DOES pose a threat to himself

☒ Inmate DOES NOT pose a threat to himself

☒ Further mental evaluation IS necessary

☐ Further mental evaluation is NOT necessary

☐ Inmate DOES NEED to be segregated from general population

☐ Inmate DOES NOT need to be segregated from general population

☐ Inmate has a LOW TOLERANCE of frustration / stress

☐ Inmate has an AVERAGE TOLERANCE of frustration / stress

☐

☐

Medical Officer's Remarks:

Still well. No SI or S. Remains in SQ-1. Well Follow.

William J. Hocter, MD
CAPT MC USA
Psychiatrist

SUICIDE RISK / PREVENTION OF INJURY ASSIGNMENT REVIEW

From: Captain Hocter, W.J.
To: Classification and Assignment Board

20101119

DATE

MANNING, BRADLEY E.

Last, First, Middle Init.

SSN

RCN

1. The following action is recommended for subject:

Custody:
MAXIMUM

Squad Bay:
SQ-1

Job:
POI

☐ Inmate DOES pose a threat to himself

☒ Inmate DOES NOT pose a threat to himself

☒ Further mental evaluation IS necessary

☐ Further mental evaluation is NOT necessary

☐ Inmate DOES NEED to be segregated from general population

☒ Inmate DOES NOT need to be segregated from general population (*Not for Psych room*)

☐ Inmate has a LOW TOLERANCE of frustration / stress

☒ Inmate has an AVERAGE TOLERANCE of frustration / stress

☐

☐

Medical Officer's Remarks:

*Seen continuing not to be suicidal.
Recommend to remain in POI again.*

WJH
William D. Hocter, MD
CAPT MC/USN
Psychiatrist

SUICIDE RISK / PREVENTION OF INJURY ASSIGNMENT REVIEW

From: Captain Hocter, W.J.
To: Classification and Assignment Board

20101202

DATE

MANNING, BRADLEY E.
Last, First, Middle Init.

SSN

RCN

1. The following action is recommended for subject:

Custody:
MAXIMUM

Squad Bay:
SQ-1

Job:
POI

☐ Inmate DOES pose a threat to himself

☒ Inmate DOES NOT pose a threat to himself

☒ Further mental evaluation IS necessary

☐ Further mental evaluation is NOT necessary

☐ Inmate DOES NEED to be segregated from general population

☒ Inmate DOES NOT need to be segregated from general population (for psychiatric reasons)

☐ Inmate has a LOW TOLERANCE of frustration / stress

☒ Inmate has an AVERAGE TOLERANCE of frustration / stress

☐

☐

Medical Officer's Remarks:

Pt report good mood & no st
Does not require TOI from psychiatric perspective

Please let Pt do Calisthenics
in his COO. Thanks

William J. Hocter, MD
CAPT MC USN
Psychiatrist

SUICIDE RISK / PREVENTION OF INJURY ASSIGNMENT REVIEW

From: Captain Hocter, WJ.
To: Classification and Assignment Board

23101210

DATE

MANNING, BRADLEY E.

Last, First, Middle Init.

SSN

RCN

1. The following action is recommended for subject:

Custody:
MAXIMUM

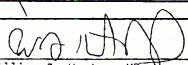
Squad Bay:
SQ-1

Job:
POI

- | | |
|--|--|
| <input type="checkbox"/> Inmate DOES pose a threat to himself | <input checked="" type="checkbox"/> Inmate DOES NOT pose a threat to himself |
| <input checked="" type="checkbox"/> Further mental evaluation IS necessary | <input type="checkbox"/> Further mental evaluation is NOT necessary |
| <input type="checkbox"/> Inmate DOES NEED to be segregated from general population | <input type="checkbox"/> Inmate DOES NOT need to be segregated from general population |
| <input checked="" type="checkbox"/> Inmate has a LOW TOLERANCE of frustration / stress | <input type="checkbox"/> Inmate has an AVERAGE TOLERANCE of frustration / stress |
| <input type="checkbox"/> | <input type="checkbox"/> |

Medical Officer's Remarks:

Pt not currently suicidal. However, is under a great deal of stress. Recommend maintain POI at this time. Will follow.


William J. Hocter, MD
CAPT MC USN
Psychiatrist

SUICIDE RISK / PREVENTION OF INJURY ASSIGNMENT REVIEW

From: Captain Hoster, W.J.
To: Classification and Assignment Board

20101213
DATE

MANNING, BRADLEY E.

Last, First, Middle Init.

SSN

RCN

1. The following action is recommended for subject:

Custody:
MAXIMUM

Squad Bay:
SQ-1

Job:
POI

☐ Inmate DOES pose a threat to himself

☒ Inmate DOES NOT pose a threat to himself

☒ Further mental evaluation IS necessary

☐ Further mental evaluation is NOT necessary

☐ Inmate DOES NEED to be segregated from general population.

☐ Inmate DOES NOT need to be segregated from general population

☐ Inmate has a LOW TOLERANCE of frustration / stress

☐ Inmate has an AVERAGE TOLERANCE of frustration / stress

☐

☐

Medical Officer's Remarks:

pt improved from last Frisk less anxious.
No SI/HT. Will continue to follow. Recommend removal
from POI status.

William J. Hoster, MD
CAPT MC USN
Psychiatrist

SUICIDE RISK / PREVENTION OF INJURY ASSIGNMENT REVIEW

From: Captain Hocter, W.J.
To: Classification and Assignment Board

20101217

DATE

MANNING, BRADLEY E.

Last, First, Middle Init.

SSN

RCN

1. The following action is recommended for subject:

Custody:
MAXIMUM

Squad Bay:
SQ-1

Job:
POI

- | | |
|--|---|
| <input type="checkbox"/> Inmate DOES pose a threat to himself | <input checked="" type="checkbox"/> Inmate DOES NOT pose a threat to himself |
| <input checked="" type="checkbox"/> Further mental evaluation IS necessary | <input type="checkbox"/> Further mental evaluation is NOT necessary |
| <input type="checkbox"/> Inmate DOES NEED to be segregated from general population | <input checked="" type="checkbox"/> Inmate DOES NOT need to be segregated from general population (for psychiatric reasons) |
| <input type="checkbox"/> Inmate has a LOW TOLERANCE of frustration / stress | <input type="checkbox"/> Inmate has an AVERAGE TOLERANCE of frustration / stress |
| <input type="checkbox"/> | <input type="checkbox"/> |

Medical Officer's Remarks:

Seen, NO ST, cooperative,
Will follow, may remove from POI

William J. Hocter, MD
CAPT MC USN
Psychiatrist

SUICIDE RISK / PREVENTION OF INJURY ASSIGNMENT REVIEW

From: Captain Hoyer, W.J.
To: Classification and Assignment Board

20101223
DATE

MANNING, BRADLEY E.

Last, First, Middle Init.

SSN

RCN

1. The following action is recommended for subject:

Custody:
MAXIMUM

Squad Bay:
SQ-1

Job:
POI

☐ Inmate DOES pose a threat to himself

☒ Further mental evaluation IS necessary

☐ Inmate DOES NEED to be segregated from general population

☐ Inmate has a LOW TOLERANCE of frustration / stress

☐

☒ Inmate DOES NOT pose a threat to himself

☐ Further mental evaluation is NOT necessary

☐ Inmate DOES NOT need to be segregated from general population

☐ Inmate has an AVERAGE TOLERANCE of frustration / stress

☐

Medical Officer's Remarks:

rem of POI with no SI, still, remain

William J. Hoyer, MD
CAPT MC USN
Psychiatrist

SUICIDE RISK / PREVENTION OF INJURY ASSIGNMENT REVIEW

From: Captain Hocter, W.J.
To: Classification and Assignment Board

20101230

DATE

MANNING, BRADLEY E.

Last, First, Middle Init.

SSN

RCN

1. The following action is recommended for subject:

Custody:
MAXIMUM

Squad Bay:
SQ-1

Job:
POI

☐ Inmate DOES pose a threat to himself

☐ Inmate DOES NOT pose a threat to himself

☒ Further mental evaluation IS necessary

☐ Further mental evaluation is NOT necessary

☐ Inmate DOES NEED to be segregated from general population

☐ Inmate DOES NOT need to be segregated from general population

☐ Inmate has a LOW TOLERANCE of frustration / stress

☐ Inmate has an AVERAGE TOLERANCE of frustration / stress

☐

☐

Medical Officer's Remarks:

POI

Not suitable, recommend removal of

William J. Hocter, MD
CAPT MC USN
Psychiatrist

SUICIDE RISK / PREVENTION OF INJURY ASSESSMENT REVIEW

From: Captain Hoyer, W.J.
To: Classification and Assignment Board

20110107
DATE

MANNING, BRADLEY E.

Last, First, Middle Init.

SSN

RCN

1. The following action is recommended for subject:

Custody:
MAXIMUM

Squad Bay:
SQ-1

Job:
POI

☐ Inmate DOES pose a threat to himself

☒ Inmate DOES NOT pose a threat to himself

☒ Further mental evaluation IS necessary

☐ Further mental evaluation is NOT necessary

☐ Inmate DOES NEED to be segregated from general population

☐ Inmate DOES NOT need to be segregated from general population *not long psychiatric person*

☐ Inmate has a LOW TOLERANCE of frustration / stress

☐ Inmate has an AVERAGE TOLERANCE of frustration / stress

☐

☐

Medical Officer's Remarks:

*Remains not suicidal. Is cooperative
c. treated person removed from POI.*

WJH
William J. Hoyer, MD
CAPT MC USN
Psychiatrist

SUICIDE RISK / PREVENTION OF INJURY ASSIGNMENT REVIEW

From: Captain Hocter, W.J.
To: Classification and Assignment Board

20110114

DATE

MANNING, BRADLEY E.

Last, First, Middle Init.

SSN

RCN

I. The following action is recommended for subject.

Custody:
MAXIMUM

Squad Bay:
SQ-1

Job:
POI

☐ Inmate DOES pose a threat to himself

☒ Inmate DOES NOT pose a threat to himself

☒ Further mental evaluation IS necessary

☐ Further mental evaluation is NOT necessary

☐ Inmate DOES NEED to be segregated from general population

☐ Inmate DOES NOT need to be segregated from general population

☐ Inmate has a LOW TOLERANCE of frustration / stress

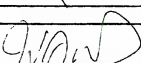
☐ Inmate has an AVERAGE TOLERANCE of frustration / stress

☐

☐

Medical Officer's Remarks:

Pt continues to not be suicidal and does not require POI. Please remove him. If he requires enhanced security for other reasons, please consider writing a separate SOP.


William J. Hocter, MD
CAPT MC USN
Psychiatrist

SUICIDE RISK / PREVENTION OF INJURY ASSIGNMENT REVIEW

From: Colonel Malone, R. D.
To: Classification and Assignment Board

20110118
DATE

MANNING, BRADLEY B.

Last, First, Middle Init.

SSN

RCN

1. The following action is recommended for subject:

Custody:
MAXIMUM

Squad Bay:
SQ-1

Job:
SUICIDE RISK

☐ Inmate DOES pose a threat to himself

☒ Inmate DOES NOT pose a threat to himself

☒ Further mental evaluation IS necessary

☐ Further mental evaluation is NOT necessary

☐ Inmate DOES NOT need to be segregated from general population

☒ Inmate DOES NOT need to be segregated from general population

☒ Inmate has a LOW TOLERANCE of frustration / stress

☐ Inmate has an AVERAGE TOLERANCE of frustration / stress

☐

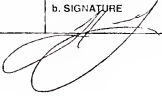
☐

Medical Officer's Remarks:

15.11.11
Based on review of records, CAPT Hester recommended
24 hr PC

Ricky D. Malone MD
Ricky D. Malone, MD
COL MC USA
Psychiatrist

[Signature]

CLASSIFICATION AND ASSIGNMENT REQUEST			REPORT DATE (YYYYMMDD) 20110120
INMATE NAME (LAST, FIRST MI.) Manning, Bradley E.		SSN [REDACTED]	RCN [REDACTED]
FORMER STATUS			
a. CUSTODY LEVEL MAX	b. STATUS DET	c. ASSIGNED DETAIL Suicide Risk	d. QUARTERS / ROW / CELL # SQ-1 / A / 192
CURRENT STATUS			
a. CUSTODY LEVEL MAX	b. STATUS DET	c. ASSIGNED DETAIL POI	d. QUARTERS / ROW / CELL # SQ-1 / A / 192
REQUEST INFORMATION		OFFENSE INFORMATION	SENTENCE INFORMATION
SND is a Change of Classification		Article 128, 134	Pre-Trial
REMARKS: Authorized and Approved by Brig Commanding Officer. Under direction of Brig Supervisor. Special Handling instruction will be completed by Programs.			
REQUESTING OFFICIAL			
a. NAME (LAST, FIRST MI.) Garrett, Steven A.		b. SIGNATURE 	c. DATE (YYYYMMDD) 20110120

BRIG FORM 4200, JAN 2011

SUICIDE RISK / PREVENTION OF INJURY ASSIGNMENT REVIEW

From: Colonel Malone, R. D.
To: Classification and Assignment Board

20110121

DATE

MANNING, BRADLEY E.

Last, First, Middle Init.

SSN

RCN

I. The following action is recommended for subject:

Custody:
MAXIMUM

Squad Bay:
SQ-1

Job:
SUICIDE RISK

☐ Inmate DOES pose a threat to himself

☒ Inmate DOES NOT pose a threat to himself

☒ Further mental evaluation IS necessary

☐ Further mental evaluation is NOT necessary

☐ Inmate DOES NOT need to be segregated from general population

☒ Inmate DOES NOT need to be segregated from general population

☒ Inmate has a LOW TOLERANCE of frustration / stress

☐ Inmate has an AVERAGE TOLERANCE of frustration / stress

☐

☐

Medical Officer's Remarks:

No current suicidal thoughts or intent, psychologically cleared to come off POI

Ricky D. Malone MD

Ricky D. Malone, MD
COL MC USA
Psychiatrist

[Signature]

SUICIDE RISK, PREVENTION OF INJURY ASSIGNMENT REVIEW

From: Colonel Malone, R. D.
To: Classification and Assignment Board

20110128
DATE

MANNING, BRADLEY E.

Last, First, Middle Init.

SSN

RCN

1. The following action is recommended for subject:

Custody:
MAXIMUM

Squad Bay:
SQ-1

Job:
POI

☐ Inmate DOES pose a threat to himself

☒ Inmate DOES NOT pose a threat to himself

☒ Further mental evaluation IS necessary

☐ Further mental evaluation is NOT necessary

☐ Inmate DOES NEED to be segregated from general population

☒ Inmate DOES NOT need to be segregated from general population

☒ Inmate has a LOW TOLERANCE of frustration / stress

☐ Inmate has an AVERAGE TOLERANCE of frustration / stress

☐

☐

Medical Officer's Remarks:

Remains at moderate risk of self-harm which is improved since arrival, would not require a higher level of psychiatric care to mitigate risk at this point. Requires routine outpatient follow-up. Frustration tolerance has improved but still somewhat below average, limited ability to express or understand his feelings. Risks and benefits of POI are not further detrimental at this time.

Ricky D. Malone, MD
Ricky D. Malone, MD
COL MC USA
Psychiatrist

REPORT OF BEHAVIORAL HEALTH EVALUATION CLASSIFICATION AND ASSIGNMENT BOARD

NAME (Last, First, MI):

Manning Bradley E

SSN:

xxx-xx-9504

RCN:

M9504355

REASON FOR BH EVALUATION

SUICIDE WATCH

PREVENTION OF INJURY

OTHER:

MENTAL STATUS EXAMINATION (CHECK ALL THAT APPLY)

BEHAVIOR: HYPERACTIVE NORMAL PASSIVE AGGRESSIVE HOSTILE SUSPICIOUS BIZARRE

LEVEL OF ALERTNESS: FULLY ALERT DULL SOMNOLENT

LEVEL OF ORIENTATION: FULLY ORIENTED PARTIAL DISORIENTED

MOOD AND AFFECT: UNREMARKABLE FLAT DEPRESSED LABILE MANIC OR HYPOMANIC

THINKING PROCESS: CLEAR CONFUSED BIZARRE LOOSELY CONNECTED

THOUGHT CONTENT: NORMAL ABNORMAL HALLUCINATION PARANOID IDEATION DELUSIONS

MEMORY: GOOD FAIR POOR

*EXPLAIN ANY ABNORMAL FINDING IN REMARKS

FINDINGS

MENTAL DISORDER IS: RESOLVED IMPROVING STABLE DETERIORATING N/A

RISK FOR SUICIDE/SELF-HARM IS: LOW MODERATE HIGH

RISK FOR VIOLENCE IS: LOW MODERATE HIGH

BEHAVIORAL DISTURBANCE: IS IS NOT DUE TO A TREATABLE MENTAL DISORDER N/A

INMATE: DOES DOES NOT NEED TO BE SEGREGATED FROM GENERAL POPULATION DUE TO A TREATABLE MENTAL DISORDER

NEEDS FURTHER EXAMINATION: WITHIN 24 HOURS WITHIN 72 HOURS ROUTINE N/A

OTHER (See Remarks)

REMARKS:

18 Feb 11
DATE

EVALUATOR:

SIGNATURE

Reck Malone COL MC

PRINTED NAME

Reck Malone, MD

REPORT OF BEHAVIORAL HEALTH EVALUATION CLASSIFICATION AND ASSIGNMENT BOARD

NAME (Last, First, MI):

Manning, Bradley E.

SSN:

xx-xx-9504

RCN:

M9504B55

REASON FOR BH EVALUATION

☐ SUICIDE WATCH

☒

PREVENTION OF INJURY

☐

OTHER

MENTAL STATUS EXAMINATION (CHECK ALL THAT APPLY)

BEHAVIOR: ☒ HYPERACTIVE ☒ NORMAL ☐ PASSIVE ☐ AGGRESSIVE ☐ HOSTILE ☐ SUSPICIOUS ☐ BIZARRE

LEVEL OF ALERTNESS: ☒ FULLY ALERT ☐ DULL ☐ SOMNOLENT

LEVEL OF ORIENTATION: ☒ FULLY ORIENTED ☐ PARTIAL ☐ DISORIENTED

MOOD AND AFFECT: ☒ UNREMARKABLE ☐ FLAT ☐ DEPRESSED ☐ LABILE ☐ MANIC OR HYPOMANIC

THINKING PROCESS: ☒ CLEAR ☐ CONFUSED ☐ BIZARRE ☐ LOOSELY CONNECTED

THOUGHT CONTENT: ☒ NORMAL ☐ ABNORMAL ☐ HALLUCINATION ☐ PARANOID IDEATION ☐ DELUSIONS

MEMORY: ☒ GOOD ☐ FAIR ☐ POOR

*EXPLAIN ANY ABNORMAL FINDING IN REMARKS

FINDINGS

MENTAL DISORDER IS: ☒ RESOLVED ☐ IMPROVING ☐ STABLE ☐ DETERIORATING ☐ N/A

RISK FOR SUICIDE/SELF HARM IS: ☒ LOW ☐ MODERATE ☐ HIGH

RISK FOR VIOLENCE IS: ☒ LOW ☐ MODERATE ☐ HIGH

BEHAVIORAL DISTURBANCE ☐ IS ☐ IS NOT DUE TO A TREATABLE MENTAL DISORDER ☒ N/A

INMATE: ☐ DOES ☒ DOES NOT NEED TO BE SEGREGATED FROM GENERAL POPULATION DUE TO A TREATABLE MENTAL DISORDER

NEEDS FURTHER EXAMINATION ☐ WITHIN 24 HOURS ☐ WITHIN 72 HOURS ☒ ROUTINE ☐ N/A

☐ OTHER (See Remarks)

REMARKS:

Anxiety disorder remains in early full remission.
Tolerating taper off medication well, understands risks and benefits of both treatment and nontreatment.
Responds well to increased intellectual stimulation.

25 Feb 11

DATE

EVALUATOR:

SIGNATURE

Rick Malore MD

PRINTED NAME

Rick Malore, MD, MC

REPORT OF BEHAVIORAL HEALTH EVALUATION CLASSIFICATION AND ASSIGNMENT BOARD

NAME (Last, First, MI): MANNING BRADLEY E SSN: XXX-XX-7504 RCN: 149504855

REASON FOR BH EVALUATION

SUICIDE WATCH ☒ PREVENTION OF INJURY ☒ OTHER: ☐

MENTAL STATUS EXAMINATION (CHECK ALL THAT APPLY)

BEHAVIOR: HYPERACTIVE ☒ NORMAL ☒ PASSIVE ☐ AGGRESSIVE ☐ HOSTILE ☐ SUSPICIOUS ☐ BIZARRE ☐
LEVEL OF ALERTNESS: FULLY ALERT DULL ☐ SOMNOLENT ☐
LEVEL OF ORIENTATION: FULLY ORIENTED PARTIAL ☐ DISORIENTED ☐
MOOD AND AFFECT: UNREMARKABLE FLAT ☐ DEPRESSED ☐ LABILE ☐ MANIC OR HYPOMANIC ☐
THINKING PROCESS: CLEAR CONFUSED ☐ BIZARRE ☐ LOOSELY CONNECTED ☐
THOUGHT CONTENT: NORMAL ABNORMAL ☐ HALLUCINATION ☐ PARANOID IDEATION ☐ DELUSIONS ☐
MEMORY: GOOD FAIR ☐ POOR ☐

*EXPLAIN ANY ABNORMAL FINDING IN REMARKS

FINDINGS

MENTAL DISORDER IS: RESOLVED IMPROVING ☐ STABLE ☐ DETERIORATING ☐ N/A ☐
RISK FOR SUICIDE/SELF-HARM IS: LOW MODERATE ☐ HIGH ☐
RISK FOR VIOLENCE IS: LOW MODERATE ☐ HIGH ☐
BEHAVIORAL DISTURBANCE: IS IS NOT ☐ DUE TO A TREATABLE MENTAL DISORDER N/A
INMATE: DOES ☐ DOES NOT NEED TO BE SEGREGATED FROM GENERAL POPULATION DUE TO A TREATABLE MENTAL DISORDER ☐
NEEDS FURTHER EXAMINATION: WITHIN 24 HOURS ☐ WITHIN 72 HOURS ☐ ROUTINE ☐ N/A ☐
OTHER (See Remarks)

REMARKS:

Anxiety disorder remains in remission, now off medication.
Risk assessment stable, low
No significant changes with recent legal developments.

20110304

DATE

EVALUATOR:

SIGNATURE

Pick Malone MD

PRINTED NAME

Pick Malone, MD, MC

REPORT OF BEHAVIORAL HEALTH EVALUATION CLASSIFICATION AND ASSIGNMENT BOARD

NAME (Last, First, MI): MANNING, BRADLEY SSN: XXX-XX-9504 RCN: M9504B55

REASON FOR BH EVALUATION

☐ SUICIDE WATCH ☒ PREVENTION OF INJURY ☐ OTHER:

MENTAL STATUS EXAMINATION (CHECK ALL THAT APPLY)

BEHAVIOR: ☐ HYPERACTIVE ☒ NORMAL ☐ PASSIVE ☐ AGGRESSIVE ☐ HOSTILE ☐ SUSPICIOUS ☐ BIZARRE

LEVEL OF ALERTNESS: ☒ FULLY ALERT ☐ DULL ☐ SOMNOLENT

LEVEL OF ORIENTATION: ☒ FULLY ORIENTED ☐ PARTIAL ☐ DISORIENTED

MOOD AND AFFECT: ☒ UNREMARKABLE ☐ FLAT ☐ DEPRESSED ☐ LABILE ☐ MANIC OR HYPOMANIC

THINKING PROCESS: ☒ CLEAR ☐ CONFUSED ☐ BIZARRE ☐ LOOSELY CONNECTED

THOUGHT CONTENT: ☒ NORMAL ☐ ABNORMAL ☐ HALLUCINATION ☐ PARANOID IDEATION ☐ DELUSIONS

MEMORY: ☒ GOOD ☐ FAIR ☐ POOR

*EXPLAIN ANY ABNORMAL FINDING IN REMARKS

FINDINGS

MENTAL DISORDER IS: ☒ RESOLVED ☐ IMPROVING ☐ STABLE ☐ DETERIORATING ☐ N/A

RISK FOR SUICIDE/SELF-HARM IS: ☒ LOW ☐ MODERATE ☐ HIGH

RISK FOR VIOLENCE IS: ☒ LOW ☐ MODERATE ☐ HIGH

BEHAVIORAL DISTURBANCE: ☐ IS ☐ IS NOT DUE TO A TREATABLE MENTAL DISORDER ☒ N/A

INMATE: ☐ DOES ☒ DOES NOT NEED TO BE SEGREGATED FROM GENERAL POPULATION DUE TO A TREATABLE MENTAL DISORDER

NEEDS FURTHER EXAMINATION: ☐ WITHIN 24 HOURS ☐ WITHIN 72 HOURS ☒ ROUTINE ☐ N/A

☐ OTHER (See Remarks)

REMARKS:

Anxiety disorder remains in remission off medications
Remains low risk for suicide/self-harm.
Could benefit from increased intellectual stimulation (e.g. games, books, magazines)

11 Mar 11
DATE

EVALUATOR

SIGNATURE

Rick Malone MD

PRINTED NAME

Rick Malone, MD, MC

REPORT OF BEHAVIORAL HEALTH EVALUATION CLASSIFICATION AND ASSIGNMENT BOARD

NAME (Last, First, MI): Manning, Bradley E. SSN: XXX-XX-9504 RCN: MA5041355

REASON FOR BH EVALUATION

SUICIDE WATCH

PREVENTION OF INJURY

OTHER:

MENTAL STATUS EXAMINATION (CHECK ALL THAT APPLY)

BEHAVIOR: HYPERACTIVE NORMAL PASSIVE AGGRESSIVE HOSTILE SUSPICIOUS BIZARRE
LEVEL OF ALERTNESS: FULLY ALERT DULL SOMNOLENT
LEVEL OF ORIENTATION: FULLY ORIENTED PARTIAL DISORIENTED
MOOD AND AFFECT: UNREMARKABLE FLAT DEPRESSED LABILE MANIC OR HYPOMANIC
THINKING PROCESS: CLEAR CONFUSED BIZARRE LOOSELY CONNECTED
THOUGHT CONTENT: NORMAL ABNORMAL HALLUCINATION PARANOID IDEATION DELUSIONS
MEMORY: GOOD FAIR POOR

*EXPLAIN ANY ABNORMAL FINDING IN REMARKS

FINDINGS

MENTAL DISORDER IS: RESOLVED IMPROVING STABLE DETERIORATING N/A
RISK FOR SUICIDE/SELF-HARM IS: LOW MODERATE HIGH
RISK FOR VIOLENCE IS: LOW MODERATE HIGH
BEHAVIORAL DISTURBANCE: IS IS NOT DUE TO A TREATABLE MENTAL DISORDER
INMATE: DOES DOES NOT NEED TO BE SEGREGATED FROM GENERAL POPULATION DUE TO A TREATABLE MENTAL DISORDER
NEEDS FURTHER EXAMINATION: WITHIN 24 HOURS WITHIN 72 HOURS ROUTINE N/A
OTHER (See Remarks)

REMARKS:

Anxiety disorder remains stable in remission.
Low risk of self-harm
No change

3/18/11 DATE EVALUATOR: Ruthelan MD PRINTED NAME: Rick McLean, MD, MR

REPORT OF BEHAVIORAL HEALTH EVALUATION CLASSIFICATION AND ASSIGNMENT BOARD							
NAME (Last, First, MI): <u>MANNING, PRADLEY</u>		SSN: <u>445-98-1504</u>		RCN:			
REASON FOR BH EVALUATION							
SUICIDE WATCH		<u>PREVENTION OF INJURY</u>		OTHER:			
MENTAL STATUS EXAMINATION (CHECK ALL THAT APPLY)							
BEHAVIOR:	HYPERACTIVE	<u>NORMAL</u>	PASSIVE	AGGRESSIVE	HOSTILE	SUSPICIOUS	BIZARRE
LEVEL OF ALERTNESS:	<u>FULLY ALERT</u>		DULL	SOMNOLENT			
LEVEL OF ORIENTATION:	<u>FULLY ORIENTED</u>		PARTIAL	DISORIENTED			
MOOD AND AFFECT:	<u>UNREMARKABLE</u>		FLAT	DEPRESSED	LABILE	MANIC OR HYPOMANIC	
THINKING PROCESS	<u>CLEAR</u>		CONFUSED	BIZARRE	LOOSELY CONNECTED		
THOUGHT CONTENT	<u>NORMAL</u>		ABNORMAL	HALLUCINATION	PARANOID IDEATION	DELUSIONS	
MEMORY:	<u>GOOD</u>		FAIR	POOR			
*EXPLAIN ANY ABNORMAL FINDING IN REMARKS							
FINDINGS							
MENTAL DISORDER IS:	RESOLVED	IMPROVING	<u>STABLE</u>		DETERIORATING	N/A	
RISK FOR SUICIDE/SELF-HARM IS:	<u>LOW</u>		MODERATE	HIGH			
RISK FOR VIOLENCE IS:	<u>LOW</u>		MODERATE	HIGH			
BEHAVIORAL DISTURBANCE:	IS	<u>IS NOT</u> DUE TO A TREATABLE MENTAL DISORDER					
INMATE:	<u>DOES</u>		DOES NOT NEED TO BE SEGREGATED FROM GENERAL POPULATION DUE TO A TREATABLE MENTAL DISORDER				
NEEDS FURTHER EXAMINATION:	WITHIN 24 HOURS		WITHIN 72 HOURS		<u>ROUTINE</u>		N/A
OTHER (See Remarks)							
<p>REMARKS: Service Member's emotional and behavioral presentation significantly varies from that observed by myself and by the facility staff. Facility staff note increased social isolation, paucity of words during verbal interactions, poor eye contact, and reduced decorum. Facility staff state behavior is atypical of that observed of other inmates. Facility staff note possible correlation between receipt of additional charges 706 proceedings and his changed behavior. History of severe adjustment disorder with suicidal thoughts. Due diligence for self-harming behavior is not unreasonable given his change in behavior. Necessary reassurance of safety is difficult to achieve if SM chooses not to communicate with facility staff. I can not recommend changing his Post status given his behavioral change. Axis I: Adj PTSD disturbance in conduct Axis II: referred Axis III: none</p>							
4/6/2011 DATE		EVALUATOR: Axis I: incarceration Axis IV: 55 SIGNATURE: <u>[Signature]</u> PRINTED NAME: <u>ROBERT RUSSELL, LTC</u>					

REPORT OF BEHAVIORAL HEALTH EVALUATION CLASSIFICATION AND ASSIGNMENT BOARD

NAME (Last, First, MI):

Manning, Bradley E.

SSN:

XXX-XX-9504

RCN:

M9504B55

REASON FOR BH EVALUATION

SUICIDE WATCH

PREVENTION OF INJURY

OTHER:

MENTAL STATUS EXAMINATION (CHECK ALL THAT APPLY)

BEHAVIOR:	HYPERACTIVE	<u>NORMAL</u>	PASSIVE	AGGRESSIVE	HOSTILE	SUSPICIOUS	BIZARRE
LEVEL OF ALERTNESS:	<u>FULLY ALERT</u>		DULL		SOMNOLENT		
LEVEL OF ORIENTATION:	<u>FULLY ORIENTED</u>		PARTIAL		DISORIENTED		
MOOD AND AFFECT:	<u>UNREMARKABLE</u>		FLAT		DEPRESSED	LABILE	MANIC OR HYPOMANIC
THINKING PROCESS	<u>CLEAR</u>		CONFUSED		BIZARRE	LOOSELY CONNECTED	
THOUGHT CONTENT	<u>NORMAL</u>		ABNORMAL		HALLUCINATION	PARANOID IDEATION	DELUSIONS
MEMORY:	<u>GOOD</u>		FAIR		POOR		

*EXPLAIN ANY ABNORMAL FINDING IN REMARKS

FINDINGS

MENTAL DISORDER IS:	<u>RESOLVED</u>	IMPROVING	STABLE	DETERIORATING	N/A
RISK FOR SUICIDE/SELF-HARM IS:	<u>LOW</u>	MODERATE	HIGH		
RISK FOR VIOLENCE IS:	<u>LOW</u>	MODERATE	HIGH		
BEHAVIORAL DISTURBANCE:	IS	IS NOT	DUE TO A TREATABLE MENTAL DISORDER <u>N/A</u>		
INMATE:	DOES	<u>DOES NOT</u>	NEED TO BE SEGREGATED FROM GENERAL POPULATION DUE TO A TREATABLE MENTAL DISORDER		
NEEDS FURTHER EXAMINATION:	WITHIN 24 HOURS	WITHIN 72 HOURS	<u>ROUTINE</u>		N/A

OTHER (See Remarks)

REMARKS:

Stable, in remission, low risk

8 Apr 11
DATE

EVALUATOR:

SIGNATURE Rick Malone MD

PRINTED NAME

Rick Malone, MD, MC

REPORT OF BEHAVIORAL HEALTH EVALUATION CLASSIFICATION AND ASSIGNMENT BOARD

NAME (Last, First, MI):

MANNING, BRADLEY

SSN:

XXX-XX-9504

RCN:

M9504BSS

REASON FOR BH EVALUATION

SUICIDE WATCH

PREVENTION OF INJURY

OTHER:

MENTAL STATUS EXAMINATION (CHECK ALL THAT APPLY)

BEHAVIOR:	HYPERACTIVE	<u>NORMAL</u>	PASSIVE	AGGRESSIVE	HOSTILE	SUSPICIOUS	BIZARRE
LEVEL OF ALERTNESS:	<u>FULLY ALERT</u>		DULL	SOMNOLENT			
LEVEL OF ORIENTATION:	<u>FULLY ORIENTED</u>		PARTIAL	DISORIENTED			
MOOD AND AFFECT:	<u>UNREMARKABLE</u>		FLAT	DEPRESSED	LABILE	MANIC OR HYPOMANIC	
THINKING PROCESS	<u>CLEAR</u>		CONFUSED	BIZARRE	LOOSELY CONNECTED		
THOUGHT CONTENT	<u>NORMAL</u>	ABNORMAL	HALLUCINATION	PARANOID IDEATION	DELUSIONS		
MEMORY:	<u>GOOD</u>	FAIR	POOR				

*EXPLAIN ANY ABNORMAL FINDING IN REMARKS

FINDINGS

MENTAL DISORDER IS:	RESOLVED	IMPROVING	<u>STABLE</u>	DETERIORATING	N/A
RISK FOR SUICIDE/SELF-HARM IS:	<u>LOW</u>	MODERATE	HIGH		
RISK FOR VIOLENCE IS:	<u>LOW</u>	MODERATE	HIGH		
BEHAVIORAL DISTURBANCE:	IS	IS NOT	DUE TO A TREATABLE MENTAL DISORDER <u>NA</u>		
INMATE:	DOES	DOES NOT	BE SEGREGATED FROM GENERAL POPULATION DUE TO A TREATABLE MENTAL DISORDER <u>NA</u>		
NEEDS FURTHER EXAMINATION:	WITHIN 24 HOURS	WITHIN 72 HOURS	<u>ROUTINE</u>	N/A	
OTHER (See Remarks)					

REMARKS:

SM not a danger to self or others. Denies depression. Denies negative symptoms of depression. NO anxiety reported. Denies any health issues. ^{Brig} ~~Brig~~ providing reasonable restrictions which do not cause any mental anguish. Discussed plan with staff.

Axis I None

Axis II: None contributing Axis III: incarceration, intimacy/relationship/social distortions

Axis IV: Histrionic personality character, Narcissistic traits (personality) Axis V 41

Plan: (1) Service Member creating distance between himself and staff. Despite reasonable expectations SM can not comply to provide staff with reassurance of safety. Will likely find reasons which prevents him from complying. Will blame staff for his non compliance due to "unreasonable" ^{Brig} ~~Brig~~ perception of unreasonable demands. Will likely find other "unreasonable" demands despite continued efforts ^{Brig} ~~Brig~~ (2) Discussed with the SM what he needs to do to comply. Replace responsibility onto the SM.

Recommendations: Continue with current plan and encourage compliance. Behavior will likely persist.

15 APR 2011

DATE

EVALUATOR:

SIGNATURE

[Signature]

ROBERT K. RUSSELL, LTC, MC

PRINTED NAME

ATTACHMENT 3



DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
1000 NAVY PENTAGON
WASHINGTON, DC 20350-1000

SECNAVINST 1640.9C
PERS-68
03 Jan 2006

SECNAV INSTRUCTION 1640.9C

From: Secretary of the Navy

Subj: DEPARTMENT OF THE NAVY CORRECTIONS MANUAL

- Ref:
- (a) Uniform Code of Military Justice (UCMJ)
 - (b) U.S. Navy Regulations, 1990
 - (c) NAVSO P-6064, Manual for Courts-Martial (MCM), United States (2005 edition)
 - (d) 10 U.S.C., Chapter 48
 - (e) SECNAVINST 5815.3J
 - (f) Judge Advocate General Manual (JAGMAN)
 - (g) NSEC Hull Type Drawing 804 5959213 (NOTAL)
 - (h) OPNAVINST 1640.8
 - (i) MCO 1640.3F (NOTAL)
 - (j) NAVFAC P-80, Planning Criteria for Navy and Marine Corps Shore Installations of 1 Oct 82 (NOTAL)
 - (k) Military Handbook 1037/4, Brigs and Detention Facilities of 15 Jul 89 (NOTAL)
 - (l) NAVMED P-117, Manual of the Medical Department, U.S. Navy (NOTAL)
 - (m) NAVSO P-1000, Financial Management Policy Manual
 - (n) SECNAVINST 5212.5D
 - (o) NAVPERS 15560D, Navy Military Personnel Manual (MILPERSMAN)
 - (p) SECNAVINST 5800.11A
 - (q) Defense Joint Military Pay System Procedures Training Guide (DJMS PTG) (NOTAL)
 - (r) Folio for Navy Standard Integrated Personnel System (NSIPS) (NOTAL)
 - (s) DODI 1325.7 of 17 Jul 01
 - (t) DOD 1325.7-M of 27 Jul 04
 - (u) OPNAVINST 6110.1H

Encl: (1) Department of the Navy Corrections Manual

1. Purpose. To issue standardized policies and procedures for the operation of Navy and Marine Corps confinement facilities. This instruction is a complete revision and should be reviewed in its entirety.

PCN 21600048000

2. Cancellation. SECNAVINST 1640.9B and SECNAVINST 1640.7D.
3. Discussion. Provisions of enclosure (1) apply to Navy and Marine Corps confinement facilities (ashore and afloat) and detention facilities. References (a) through (u) are applicable. Supplemental instructions may be issued as necessary for operation of each confinement and detention facility.
4. Action. Each addressee is responsible for administration of Department of the Navy (DON) corrections program per this manual. Recommended changes should be forwarded via the chain of command to Assistant Secretary of the Navy (Manpower and Reserve Affairs) (ASN (M&RA)).
5. Forms and Reports
 - a. Requisition and availability of forms is provided in appendix A.
 - b. Reporting requirement (BUPERS 1640-1) contained in article 8110 of this manual is required, unless Correctional Management Information System (CORMIS) is used.
 - c. All other reports are exempt from reports control by SECNAVINST 5214.2B.

William A. Navas, Jr.
Assistant Secretary of the Navy
(Manpower & Reserve Affairs)

Distribution:
Electronic only via Navy Directives Website
<http://ned.s.daps.dla.mil>

4105. SALLY PORT OPERATIONS

1. A sally port is basic to the secure operation of any confinement facility. Used properly, it affords security and control over entry to and exit from the confinement facility.

2. Following procedures shall be followed in sally port operations:

a. Whether gate or door locks are keyed manually or operated electrically, provisions shall be made to prevent both from being inadvertently opened at the same time.

b. If sally port doors or gates are electrically operated, the controls shall be located inside the control center or within a secure post which has an unobstructed view of the sally port.

c. If the sally port is used primarily for vehicles, it shall be constructed so the largest vehicle entering can be contained within it with both gates closed. Ensure that any prisoners accompanying a vehicle have been properly logged out of the confinement facility by the control center supervisor. All vehicles entering a sally port shall be searched.

d. Other staff members may assist the security supervisor in searching prisoners and vehicles, but the ultimate responsibility for ensuring that no contraband or unauthorized prisoners pass through the sally port rests with the security supervisor.

SECTION 2. PRISONER CUSTODY CLASSIFICATION

4201. PURPOSE AND DEFINITIONS

1. Purpose. Purpose of custody classification is to establish the degree of supervision needed for control of individual prisoners. Custody classification provide guidance for supervision of prisoners and permit establishment of security measures consistent with requirements of the individual. Among prisoners there are wide variations in personality and mentality. Where there is fair and impartial treatment, prisoners generally present no serious disciplinary problems. There are some prisoners, however, who are deliberately

uncooperative. Some have personality difficulties which make them chronic sources of trouble, such as the highly aggressive person or those acutely depressed. Efforts must be made to identify all special cases, and control measures instituted to ensure the safe and orderly administration of the confinement facility. An objective custody classification process which addresses the characteristics of the prisoners shall be used per reference (t); the Correctional Management Information System (CORMIS) electronic equivalent is also authorized.

2. Classification Definitions. Every prisoner shall be assigned one of the following custody classifications:

a. Maximum Custody (MAX). Prisoners requiring special custodial supervision because of the high probability of escape, are potentially dangerous or violent, and whose escape would cause concern of a threat to life, property, or national security. Ordinarily, only a small percentage of prisoners shall be classified as MAX.

(1) Supervision must be immediate and continuous. A DD 509, Inspection Record of Prisoner in Segregation, shall be posted by the cell door and appropriate entries made at least every 15 minutes.

(2) They shall not be assigned to work details outside the cell.

(3) They shall be assigned to the most secure quarters.

(4) Two or more staff members shall be present when MAX prisoners are out of their cells.

(5) MAX prisoners shall wear restraints at all times when outside the maximum-security area and be escorted by at least two escorts (confinement facility staff or certified escorts, per article 7406).

(6) On a case-by-case basis, the CO/OIC/CPOIC may authorize additional restraint for movement of specific MAX prisoners. A military judge may direct that restraints be removed from a person in the courtroom if, in this judge's opinion, such restraint is not necessary. In all cases, the limitations of article 1102 of reference (b) shall be observed.

b. Medium Custody In (MDI). Prisoners who present security risks not warranting MAX. They are not regarded as dangerous or violent.

(1) Supervision shall be continuous within the security perimeter and immediate and continuous when outside the security perimeter.

(2) They shall not be assigned to work outside the security perimeter.

(3) They shall wear restraints outside the security perimeter unless the CO/OIC/CPOIC directs otherwise.

(4) They shall be escorted by at least two confinement facility staff or certified escorts, per article 7406, unless the CO/OIC/CPOIC directs only one escort is required.

(5) They may be assigned dormitory quarters.

c. Medium Custody Out (MDO). Prisoners who present security risks not warranting MDI.

(1) Supervision shall be immediate and continuous when outside the security perimeter of the confinement facility.

(2) They may be assigned to any regular work inside or outside the facility.

(3) They shall require at least one escort when outside the security perimeter. Working party and other escort ratios shall be determined by the CO/OIC/CPOIC when escorted by confinement facility staff; escort ratios for unit escorts shall be no less than one escort per five MDOs.

d. Minimum Custody (MIN). Prisoners who present security risks not warranting the above classifications.

(1) Custodial supervision may be occasional or periodic; a system of checks is usually sufficient.

(2) They are usually assigned work outside the facility.

(3) They shall require at least one escort when outside the security perimeter. Working party and other escort ratios shall be determined by the CO/OIC/CPOIC when escorted by confinement facility staff; escort ratios for unit escorts shall be no less than one escort per 10 MINS.

e. Installation Custody (IC). Certain post-trial prisoners who require only limited custodial supervision. They may work and move about much the same as individuals in normal duty status. Following guidelines apply to placing persons in installation custody:

(1) Have completed at least one half of the confinement adjudged, or the convening authority has taken action, whichever occurs first.

(2) Are not more than 12 months from minimum release date.

(3) Have not previously been removed from this custody grade for cause.

(4) May be berthed inside or outside the security perimeter of the confinement facility. Additional authorized privileges, such as attending the installation theater, library, sports events, and similar activities may be authorized by the activity (Navy) or installation commander.

(5) Person's uniform outside a Navy confinement facility shall not identify the individual as a prisoner. Prisoners confined in Marine Corps confinement facilities shall wear the standardized prisoner uniform per MCO 1640.5B.

(6) All IC's must sign a DD 512 and carry it with them at all times outside the facility. A locally prepared agreement, listing the limitations on movement outside the facility, shall be agreed to and signed by IC prisoners and countersigned by the CO/OIC/CPOIC or designee. DD 512 shall be turned in and checked out from the control center supervisor as required. Assignments shall depend on ability to handle responsibility and, whenever possible, be commensurate to individual's training, skill, needs of the service, and potential training value to the prisoner. Maximum use of installation custody status is encouraged.

4202. CLASSIFICATION CRITERIA

1. A custody classification shall be based on amount of supervision and restraint each prisoner requires.
2. All new prisoners, except those specifically deemed to be serious management problems (MAX), shall be assigned a MDI custody classification during the reception phase. Detainees shall not be assigned a MDO, MIN or IC custody classification.
3. Ultra-conservative custody classification results in a waste of prisoner and staff manpower. A large number of MAX and MDI prisoners reduce the number of staff available for supervision of the kinds of productive work available to lesser custody classifications (IC, MIN, MDO). Classification system must follow established, but flexible, procedures.
4. Prisoners in lesser custody classifications (IC, MIN) shall have the opportunity for additional privileges, as opposed to incentives, simply because of the requirement for reduced supervision and increased mobility. A prisoner in any custody classification may be granted extra incentives, within security constraints, for above average performance. Incentives must be earned and are not automatic with a custody classification. Prisoners shall be placed in the lowest custody classification as soon as possible. Thus, it is not appropriate to "promote" prisoners through custody classifications in sequence.
5. Following are factors, though not all inclusive, to be considered in assessing higher custody classifications (MAX or MDI):
 - a. Assaultive behavior.
 - b. Disruptive behavior.
 - c. Serious drug abuse.
 - d. Serious civil/military criminal record (convicted or alleged).
 - e. Low tolerance of frustration.
 - f. Intensive acting out or dislike of the military.

- g. History of previous escape(s).
 - h. Pending civil charges/detainer filed.
 - i. Serving a sentence which the individual considers to be unjust or severe.
 - j. Poor home conditions or family relationships.
 - k. A mental evaluation indicating serious neurosis or psychosis.
 - l. Indication of unwillingness to accept responsibility for personal actions past and present.
 - m. Demonstrated pattern of poor judgment.
 - n. Length, or potential length, of sentence.
6. Following are factors that indicate lower custody classifications (MDO, MIN, or IC).
- a. Clear military record, aside from present offense.
 - b. Close family ties; good home conditions.
 - c. The offense(s) charged is not serious.
 - d. Apparently stable mental condition (responsible for own actions).
 - e. Indications the individual wishes to return to duty.
 - f. Comparatively short sentence to confinement; however, length of sentence shall not be an overriding factor.
 - g. Behavior during a previous confinement.
 - h. Completion of, or active participation in, treatment programs or groups.
7. It must be understood the factors mentioned above are only indicators, not ironclad rules; therefore, the CO/OIC/CPOIC shall consider objective based overrides where applicable. An

evaluation of all phases of the prisoner's performance shall be made prior to each custody change. By following the criteria and concepts outlined above, the CO/OIC/CPOIC shall be able to make more efficient use of staff and provide an atmosphere in which restoration efforts shall be more effective.

8. Adult Internal Management System (AIMS). An AIMS classification shall be determined for each prisoner confined in Navy confinement facilities. This is a five-level classification of prisoners based on aggressiveness of personality and methods of problem management used by an individual. AIMS is never used for custody or incentive determination, but is very useful for housing and programming prisoners together in order to maximize their opportunities to succeed and to utilize programs offered. Use of AIMS in each confinement facility is required; each classification and assignment board or unit board shall consider a prisoner's AIMS classification in assignment of berthing, program, and work. AIMS is used in Marine Corps confinement facilities at discretion of the CO.

4203. EVALUATION OF PRISONERS

1. An evaluation program as issued by NAVPERSCOM (PERS-68) shall be implemented in all Navy confinement facilities and correctional custody units. Factual information concerning prisoners, such as home and community background, education, service adjustment, attitudes, offense and circumstances, sentence, and any other pertinent information shall be assembled early in their confinement. Through observation and evaluation reports, staff contacts, and recommendations/actions of higher authorities, histories of prisoners can be developed for use in determining their response to the corrections program. This in turn shall indicate possible program changes.

2. Receiving and release supervisor shall ensure that a DD 2710, Inmate Background Summary, is completed on each prisoner as part of the admission process. It shall be reviewed by the brig duty officer/duty brig supervisor and forwarded to the correctional counseling staff.

3. All members supervising prisoners shall be responsible for evaluating prisoners in their charge and shall submit periodic written reports on their performance. This must be done on a

scheduled basis, preferably weekly, to show levels of performance on a continuing basis. The evaluation shall be submitted on a DD 2712, Inmate Work and Training Evaluation.

a. Each report shall describe prisoner's attitude, work performance, overall performance, ability to get along with others, problems known to the supervisor, and any recommended custody or program changes.

b. Supplementary reports shall be submitted when a prisoner demonstrates behavior which is out of the ordinary, either good or bad.

4. A "treatment file" shall be developed for each prisoner to maintain all pertinent treatment and counseling related information. This file shall be made available to staff members on a "need-to-know" basis. It shall be made available for official reviews of adjustment to confinement and for board usage.

5. Each staff member has responsibility for passing information concerning prisoners to the proper authority in the confinement facility. What seems to be a bit of trivial information may prove to be significant when coupled with other information on hand. Behavior and attitude of the prisoner in the berthing area, at work, in recreation, and in a classroom shall provide a good overall indicator of problem areas and adjustment progress. Continuous staff evaluation of each prisoner cannot be overemphasized.

4204. CLASSIFICATION AND ASSIGNMENT (C&A) BOARD. The C&A board shall establish an individual prisoner's custody classification using objective classification/reclassification procedures. When the C&A board determines custody classifications, it shall be composed of the BRIG O or designated representative, one senior staff member from security and one from programs, and any other members appointed by the BRIG O. See article 6303 of this manual for program functions of the C&A board.

4205. SPECIAL QUARTERS

1. Policy

a. Some prisoners require additional supervision and attention due to personality disorders, behavior abnormalities, risk of suicide or violence, or other character traits. If required to preserve order, the BRIG Os or, in their absence, the brig duty officers/duty brig supervisors may authorize special quarters for such prisoners for purposes of control, prevention of injury to themselves or others, and the orderly and safe administration of the confinement facility. A hearing to determine the need for continued administrative segregation of the prisoner shall be conducted. This hearing may be by board action or by a member of the confinement facility appointed in writing by the BRIG O, and a written recommendation to the BRIG O will be provided within 72 hours of the prisoner's entry into segregation.

b. Special quarters is a group of cells used to house prisoners who have serious adjustment problems or certain medical issues, are highly temperamental or emotional, anti-social, some medical cases, or who cannot get along with other prisoners, or are persistent custodial problems. Special quarters are not a punitive measure and shall not be used as such. Prisoners must be made aware of the reason they are berthed in special quarters. Prisoners are assigned to special quarters by the BRIG O and shall not have normal privileges restricted unless privileges must be withheld for reasons of security or prisoner safety (e.g., suicide risks or aggressive, assaultive or predatory prisoners). For each period of 30 days a prisoner is retained in special quarters, the C&A board shall review and provide a recommendation to the BRIG O, who shall determine and certify the requirement for continuation in special quarters.

c. Disciplinary segregation is provided for in article 5105.3e.

d. Prisoners who have threatened suicide or have made a suicide gesture but are found fit for confinement may be placed within special quarters under continuous observation while in the category of suicide risk. CO/OIC/CPOIC may direct removal of prisoner's clothing when deemed necessary. Prisoner must be under observation of a supervisor of the same sex. Closed circuit television may be installed at a limited number of cells for observation, although cross gender monitoring is not authorized.

2. Procedures. All prisoners in special quarters shall be under continual supervision. Special precautions shall be taken in equipping, inspecting, and supervising their quarters to prevent escapes, self-injury, and other serious incidents. They shall be sighted at least once every 15 minutes by a staff member and shall be visited daily by a member of the medical department and the BRIG O. In addition, it is highly desirable that prisoners in special quarters be visited daily by a chaplain. Each sighting of and visit to any segregated prisoner shall be officially recorded and include date, time, name of visitor, and any appropriate remarks. DD 509, Inspection Record of Prisoner in Segregation, shall be used to record visits.

3. Behavior and Custody Problems. On rare occasions it may be necessary to confine violent prisoners in cells without furnishings to prevent them from injuring themselves or others. Such a measure shall be used only upon specific direction of the BRIG O. A segregated prisoner shall be released to regular quarters as soon as the need for special segregation is past.

4. Homosexuals. Persons who are suspected, accused, or convicted of homosexual acts shall not automatically be segregated or berthed in cells. Confinement in a cell may be appropriate when the prisoner has been involved in acts that may jeopardize the prisoner's safety or the safety of others. Homosexuals shall not be restricted from normal privileges and supervised activities available to other prisoners in the same custody classification if their conduct in confinement is not sexually aggressive and otherwise satisfactory.

5. Suicide Risks

a. Prisoners with a history of suicide attempts or who are considered to be suicidal shall be immediately referred to the medical department/clinical services/mental health department for further evaluation and appropriate action, which may include hospitalization. NAVMEDCOMINST 6320.11 provides guidelines in those cases involving emergencies, specialized treatment or evaluation, or psychiatric treatment that can not be deferred.

b. Prisoners who have threatened suicide or have made a suicidal gesture, but are found fit for confinement, may be placed in the category of "suicide risk" for observation. They shall be placed in special quarters under continuous

observation. CO/OIC/CPOIC may direct removal of the prisoner's clothing when deemed necessary. Prisoner must be under observation of a supervisor of the same sex. Closed circuit television may be installed at a limited number of cells for observation. Use of this equipment would be in addition to the requirement above.

c. Such prisoners shall be berthed in special quarters and physically checked every 5 minutes. Such checks shall be annotated on an operational report, or other locally generated form, and shall accompany the prisoner's DD 509. They shall not be permitted to retain implements with which they could harm themselves.

d. When prisoners are no longer considered to be suicide risks by a medical officer, they shall be returned to appropriate quarters.

6. Human Immunodeficiency Virus (HIV)/Acquired Immune Deficiency Syndrome (AIDS). See article 10104.

4206. BERTHING

1. Where facilities permit, newly admitted prisoners shall be housed separately from the general population until indoctrination in prisoner regulations and other administrative details of reception are completed. During this period of orientation, prisoners shall be objectively evaluated and a custody classification assigned prior to transfer to the general population.

2. Although preferred, there is no requirement that prisoners of different legal status (detained or sentenced) be berthed separately. Separation of prisoners shall be by custody or AIMS classification (see article 4202.8). Optimum situation would permit housing different custody classification prisoners in different and separate areas. In many confinement facilities, practicality dictates commingling of prisoners in the same quarters; however, every effort shall be made to maintain separate berthing where possible. Where optimum conditions do not exist, prisoners in medium and minimum custody classifications may be housed together.

3. Definitions

a. Administrative Segregation (ADSEG). Involuntary or voluntary separation, for specific cause, of select prisoners from the general prisoner population and authorized movement of a prisoner to special quarters (SQ) by the COs/OICs or, in their absence, the brig duty officer (BDO)/duty brig supervisor (DBS) for purposes of control, preserving order, prevention of injury to themselves or others, and for the orderly and safe administration of the confinement facility.

b. Disciplinary Segregation (DS). The directed placement of prisoners in special quarters (SQ) in order to separate them from the general population of the confinement facility as a result of disciplinary and adjustment (D&A) Board process and specifically authorized by the CO/OIC.

c. Incentives. Tangible and intangible opportunities, beyond the scope of privileges, available within the confinement facility's corrections program to encourage and motivate positive prisoner attitude, behavior, and accomplishment. Incentives recognize both individual and group attainment. The ultimate goals are to build self-discipline and self-reliance in the individual/group and improve the functioning of the brig. Incentives are not associated with authorized disciplinary actions but may be applicable or affected as a related management action as implemented within confinement facility policy and procedures.

d. Legitimate Penological Interest. A bona fide concern for essential correctional operations that may require curtailment a prisoner's rights.

e. Major Disciplinary Actions (Major Punishments). Authorized disciplinary actions as a result of D&A Board process and specifically authorized by the CO/OIC to include: forfeiture of GCT, ET, or SAA; DS; disciplinary segregation with special diet (DSSD); and associated management actions (e.g., vacation of suspension of outstanding major punishments).

f. Management Actions. Authorized actions as a result of disciplinary and adjustment D&A Board process and specifically authorized by the CO/OIC or designee to include: detail change (job and or ET work level); change in continuous employment

date; berthing change; suspension or vacation of an imposed disciplinary action; incentive level change; and custody reduction.

g. Minor Disciplinary Actions (Minor Punishments). Authorized disciplinary actions as a result of D&A Board process and specifically authorized by the CO/OIC or designee to include: administrative reprimand or warning; loss of privileges; extra duty; and associated management actions (e.g., vacation of suspension of outstanding minor punishments).

h. Privileges. Any service that is not, by law or policy, considered to be an essential service. Privileges are benefits afforded to prisoners over and above minimum statutory requirements. Privileges in corrections serve as a practical method of reducing prisoner tensions and motivating or controlling prisoner behavior. Privileges can be removed from a prisoner as punishment for a rule violation, but only after a due process hearing (e.g., D&A Board). Privileges often include, but are not limited to: commissary (H&C) visits; visits; phone calls; television; radio; movies; recreation; special events; and special visits. Privileges are distinctly separate from incentives and identified as such, in writing, to staff and prisoners.

i. Rights. An essential service that must be provided to a prisoner. Prisoner rights are established in the United States Constitution and defined by Department of Defense (DOD), Secretary of the Navy (SECNAV), and other naval operating instructions. Rights are not removed from a prisoner as a punishment for a rules violation, but may be restricted, however, when there is a legitimate penological interest, such as security or safety. Rights in confinement include, but are not limited to: minimum standard of living; freedom from discrimination on the basis of race, religion, creed, national origin, or sex; limited rights to practice speech and religion; prohibition of cruel and unusual punishment; duty to protect; due process in their right to administrative appeals; meals; health care; correspondence or other access to corresponding or consulting with counsel; and due process hearing for disciplinary actions.

4. Discipline

a. Discipline, not harshness, is the heart of the correctional process. Nowhere is it more important than in military confinement facilities, since persons returning to duty after confinement can serve satisfactorily only if they are able to conduct themselves in a disciplined manner. Most prisoners in naval confinement facilities are young and are in confinement due to their lack of self-discipline.

b. Discipline can be learned only in a disciplined environment. Confinement facilities must at all times provide such an environment, which is enhanced by requiring a high standard of staff discipline. If every member of the staff meets high personal standards of discipline and if staff morale is high, prisoners shall observe this and most will respond positively. The objective is to instill discipline by teaching and demonstrating the value of self-discipline and self-reliance.

c. Rules for prisoners shall reflect the Department of Navy (DON) policies and shall cover essential elements of the confinement facility's correctional program and daily routine.

d. New prisoners shall be given a copy of the facility's rules governing prisoner conduct, to be retained by them until their release.

e. Instructions concerning various prisoner routines and responsibilities shall be thoroughly explained in the reception phase. It must be realized that newly arrived prisoners are in unfamiliar surroundings. They must be informed of limitations placed on their activities as well as opportunities available to them for self-improvement.

f. Daily routine and schedules of special activities shall be prominently displayed in places readily accessible to prisoners.

g. Basically, three rules are required of prisoners.

(1) "Do not escape, attempt to escape, or aid another to escape."

(2) "Do not have contraband in your possession."

(3) "Do not engage in disruptive behavior."

h. Each prisoner is expected to comply with the confinement facility rules and regulations and each shall be informed that any attempt to circumvent the rules and regulations shall be punishable as a breach of discipline.

i. Prisoners are subject to reference (a), regardless of discharge status.

j. Personnel in confinement shall observe military courtesies per service customs and traditions as appropriate. They shall not be required to observe or practice military courtesies or other requirements that are unorthodox and not standard military practices. Following are examples of prohibited requirements:

(1) Requiring prisoners to salute or address enlisted personnel as "sir" or "ma'am" or to refer to themselves by a number or nickname, vice their name.

(2) Requiring all prisoners to begin or end all statements to enlisted personnel with "sir" or "ma'am".

(3) Requiring prisoners to face bulkheads at close range in the passage of staff members.

(4) Requiring prisoners to request permission to speak.

(5) Prisoners shall be required to perform only that PT prescribed in the daily routine/plan of the day. Use of PT or close order drill, as punishment, as a means of motivational training, or by any other reason, is prohibited. Discharged military prisoners will be allowed the opportunity, but are not required, to participate in organized PT. When participating, they will follow the same protocols required of non-discharged prisoners. Discharged prisoners who elect not to participate will remain in their cells/rooms during the evolution.

k. Military courtesies and discipline shall be taught and required in a confinement facility as they are practiced in a regular military unit or aboard a ship or station. Unless

specifically authorized by the CO, OIC, or chief petty officer in charge (CPOIC), and prescribed in the plan of the day, extra military instruction (EMI) shall not be directed.

1. Gambling among prisoners is specifically prohibited.

5102. AUTHORIZED DISCIPLINARY PROCESS, PROCEDURES, AND ACTIONS

1. Authority. COs/OICs and others as specified herein may impose disciplinary actions on prisoners after due process (D&A Board). Disciplinary actions are administrative in nature and do not preclude trial by courts-martial or action under reference (a), article 15.

2. Punishable Conduct

- a. While confined at military confinement facilities, all prisoners are subject to disciplinary action for violations of reference (a), relevant Federal laws, and confinement facility rules and regulations, even after discharge from the Military Service. Jurisdiction over a prisoner continues even after departing the confinement facility (e.g., parole, supervised release, or excess leave), as long as the member remains under the administrative control of the armed services. Misconduct is dealt with through trial by courts-martial, violations brought before a D&A Board, and other management or administrative actions.

- b. Rules of a confinement facility must be enforced in a just and impartial manner. Violations must never be ignored or condoned, and staff members shall deal with minor violations on the spot. Normally, calling prisoners aside and explaining why their behavior is unacceptable will suffice. Excessive use of DD 2714s, Inmate Disciplinary Report (DR), reduces their effectiveness.

- c. Mass or group punishment for an offense by an individual is strictly prohibited.

- d. DRs shall be reserved for serious offenses, or to interrupt a pattern of unacceptable behavior, such as a series of minor infractions in a short period of time as documented on DD 2713, Inmate Observation Report (OR).

e. ORs placed in prisoners' files provide an excellent means of evaluating their performance; however, no inference shall be drawn that every minor incident must be put in writing.


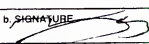


3. Initial Procedures. The following procedures shall be followed when a prisoner allegedly commits an infraction of regulations and a verbal correction/OR is not considered appropriate:

a. When a staff member reports an offense, the prisoner shall be immediately informed of the nature of the alleged rules violation. DR, shall be used in reporting offenses. Contraband or other evidence substantiating the charge is to be submitted with the DR. DRs, once submitted by the staff member to the CDO/DBS, shall not be dismissed except by the XO/AOIC/BRIG O after their review of the report and informal investigation. The brig CDO/DBS shall initially review the DR for clarity, completion, and, where necessary, take interim action to ensure safety, and good order and discipline within the confinement facility. A due process hearing to determine the need for continued administrative segregation of the prisoner shall be conducted by a neutral member of the brig staff, appointed by the CO/OIC, to review and make recommendations to the CO/OIC within 72 hours of the prisoner's entry into segregation.

b. In all cases where a DR is submitted, an informal investigation into the facts and circumstances of the alleged violation shall be made by a staff member uninvolved in the incident. Prisoners who are on report may make a statement in their own behalf, after they have been warned against self-incrimination in compliance with reference (a), article 31, and informed of their rights to consult with counsel. After having their rights explained, prisoners may sign a waiver of their rights and request a hearing by D&A Board without consulting counsel, obtaining personal representative, or calling witnesses.

c. The DR and investigation shall be forwarded to the XO/AOIC/BRIG O for review. In cases where the XO/AOIC/BRIG O directs a hearing by the D&A Board, written notice of the alleged violations shall be given to prisoners at least 24 hours in advance of the hearing. At Naval Consolidated Brig (NAVCONBRIG) the XO shall refer the disciplinary case to either a command-level or departmental-level board, as appropriate.

ATTACHMENT 4

SPECIAL HANDLING INSTRUCTIONS				REPORT DATE (YYYYMMDD) 20100729
1. INMATE NAME (LAST, FIRST MI) MANNING, BRADLEY E.		2. SSN [REDACTED]		3. RCN [REDACTED]
4. CUSTODY LEVEL MAX	5. STATUS DET	6. SPECIAL DETAIL INDOCTRINATION / SUICIDE RISK		7. QUARTERS / ROW / CELL # SQ-1 / A / 191
8. SPECIAL INSTRUCTIONS				
<p>a. SNP/SND <u>WILL</u> wear restraints and be escorted according to custody classification when leaving cell. The Duty Brig Supervisor will be notified prior to SNP/SND moving outside any area outside Special Quarters. Control Center Supervisor will commence facility lockdown.</p> <p>b. SNP/SND <u>IS NOT</u> authorized recreation call; <u>IS NOT</u> authorized television call; <u>IS NOT</u> authorized library call; <u>IS NOT</u> authorized to conduct calisthenics in cell.</p> <p>c. SNP/SND <u>IS NOT</u> authorized to make/receive phone calls.</p> <p>d. SNP/SND <u>IS NOT</u> authorized Weekend/Holiday visitation.</p> <p>e. SNP/SND <u>IS NOT</u> authorized to lie on rack between reveille and taps unless on medical bed rest. Bed rest will be verified by a profile from medical personnel.</p> <p>f. SNP/SND <u>IS NOT</u> authorized to speak to occupants of other cells.</p> <p>g. SNP/SND <u>IS NOT</u> authorized to keep any gear inside his cell with the exception of; one rules and regulations, one religious book, one toilet paper roll, one mattress, one underwear, and one POI blanket.</p> <p>h. SNP/SND <u>WILL</u> remain in cell during fire drills unless otherwise directed by the Commanding Officer, Brig Supervisor, Operations Chief, or the DBS.</p> <p>i. SNP/SND <u>WILL</u> come to the position of attention in front of hatch upon entry of any commissioned officer and <u>WILL</u> remain at attention until told to carry on. SNP/SND <u>WILL</u> address all duty personnel (enlisted) by their rank at parade rest. SNP/SND <u>WILL</u> be required to stand at the position of attention for count until carry on is sounded.</p> <p>j. SNP/SND <u>WILL</u> eat in cell with a metal spoon / plastic utensils only.</p> <p>k. SNP/SND <u>WILL</u> have sick call, medication call, and chaplain visits conducted at cell hatch. Command and legal visits will be conducted at cell or in a non-contact booth.</p>				
9. ADDITIONAL INSTRUCTIONS				
a. SNP/SND <u>WILL</u> receive correspondence material from 2020-2120 to include mail, legal papers, letter paper, envelopes, DD510 Forms, and one pencil or pen.				
b. SNP/SND <u>WILL</u> receive hygiene items in accordance with the POD only.				
10. STATEMENT OF UNDERSTANDING				
 I certify that I have been briefed regarding the above instructions and understand them and my responsibilities.				
11. INMATE				
a. NAME (LAST, FIRST MI) MANNING, BRADLEY E.		b. SIGNATURE 		c. DATE (YYYYMMDD) 20100729
12. DUTY BRIG SUPERVISOR				
a. NAME (LAST, FIRST MI) HANKS, R. W.		b. SIGNATURE 		c. DATE (YYYYMMDD) 20100729
13. COMMANDING OFFICER REVIEW				
a. NAME, GRADE, TITLE AVERHART JR., J.T. / CWO4 / COMMANDING OFFICER		b. SIGNATURE 		c. DATE (YYYYMMDD) 20100729

BRIG FORM 4205, AUG 2009

UNITED STATES MARINE CORPS

Brig Company, Security Battalion
Marine Corps Base
Quantico, Virginia 22134-5044

SPECIAL QUARTERS RULES AND REGULATIONS

While in Special Quarters, you will conduct yourself in a proper manner, strictly adhering to the brig rules and regulations. Failure to do so can result in disciplinary action, and charges may be referred to your command for further punishment. The following rules and regulations apply directly to Special Quarters.

1. You will always assume the position of Parade Rest when addressing or being addressed by enlisted staff personnel. You will stand at the position of Attention when addressing or being addressed by an officer.
BCH
2. During your entire time of confinement you will be subject to searches of your person as well as your personal possessions.
BCH
3. When you are assigned to a cell, the Special Quarters Supervisor will complete a cell discrepancy sheet, listing all discrepancies inside the cell. At this time you will check your cell and verify all discrepancies noted by the Special Quarters Supervisor to ensure it is correct. Upon release from Special Quarters, you will be held responsible for any additional discrepancies noted after your cell is checked again and you will be subject to being charged with destruction of government property if any further discrepancies are found.
BCH
4. There will be no alterations of lights, such as coverings with sheets, blankets, and uniforms. Self-constructed devices for turning on and off the lights are prohibited.
BCH
5. You will keep your cell in a high state of police in accordance with Special Quarters cell diagram that is provided to you when you arrive in Special Quarters.
BCH
6. You will not pass anything from cell to cell or to any other Prisoner or Detainee.
BCH
7. While in your cell you will sit on your rack with your feet flat on the deck, allowing no part of your back to touch the bulkhead or cell door.
BCH
8. Your rack will be made in a military manner with no more than 18 inches of white showing. 12 inches will be the bottom white sheet and the other 6 inches will come from a fold made with the top sheet and the green blanket. Your head will face the far end of the cell.
BCH
9. You may be allowed to talk to other Prisoners or Detainees in Special Quarters according to your Special Handling Letter.
BCH

- BEN 10. When requesting staff personnel for assistance, you will call in a clear loud voice, "Special Quarters Supervisor," or the rank and name of the supervisor, followed by your cell number.
- BEN 11. When attention on deck is called, you will stand at attention facing the cell door on the yellow footprints. You will remain at attention until told to carry on.
- BEN 12. During meal periods, you will eat your meals when served. All leftovers will be given back upon completion of the meal period. No food items, utensils, or trash will be kept in your cell.
- BEN 13. All mail and correspondence will be placed in the appropriate box and processed through the mailroom. Any privileged correspondence will be requested via DD510 submitted to the Brig supervisor for approval.
- BEN 14. When a female comes on deck, the guard will announce "female on deck" at which you will sound off "clear" or not "not clear" to notify the guard that you are or are not dressed or making a head call.
- BEN 15. In any case not covered by these rules and regulations ask staff personnel for assistance. Signing your name indicates you have read and understand these rules and regulations.

Prisoner/Detainee (PRINT)

Prisoner/Detainee (PRINT)

 29 JUL 2000
Prisoner/Detainee (SIGN AND DATE)


Special Quarters (SIGN AND DATE)



UNITED STATES MARINE CORPS

Quantico Pre-Trial Confinement Facility
3247 El Rod Ave
Quantico, VA 22134

WARDEN'S REPORT
1640
B 275
30 Jul 16

From: SPC Manning Bradley E [REDACTED] USA
Rank: Last Name First Name MI SSN Branch of Service
To: Brig Supervisor, Pretrial Confinement Facility, MCAS Iwakuni, Japan
Subj: ACKNOWLEDGEMENT OF RULES AND REGULATIONS FOR THE PRE-TRIAL CONFINEMENT FACILITY,
MCE QUANTICO, VIRGINIA
Ref: (a) SECNAVINST 1640 9C

1. In accordance with the reference, the following has been read or explained to me.

a. As a prisoner/detainee you are not in charge of anyone but yourself. DO NOT ATTEMPT to lead or influence others.

b. During your confinement you will be subject to three types of searches:

1) Frisk Search, Strip Search, and Area Search

c. There are three basic rules YOU MUST ADHERE TO:

2) Do not escape, attempt to escape, or aid another to escape

3) Do not have contraband in your possession.

4) Do not engage in disruptive behavior

2. Any violation of the rules and regulations will be noted by the staff members and forwarded to the Brig Commanding Officer. I fully understand the Rules and Regulations that govern this facility and will comply with them.

Manning, Bradley

Prisoner Print Name

Signature of Prisoner

20100730

Date

Carl Manning

Witness Print Name

Signature of Witness

20100730

Date

SPECIAL HANDLING INSTRUCTIONS			REPORT DATE (YYYYMMDD) 20100802
1. INMATE NAME (LAST, FIRST MI) MANNING, BRADLEY E.		2. SSN [REDACTED]	3. RCN [REDACTED]
4. CUSTODY LEVEL MAX	5. STATUS DET	6. SPECIAL DETAIL SUICIDE RISK	7. QUARTERS / ROW / CELL # SQ-1 / A / 191
8. SPECIAL INSTRUCTIONS			
<p>a. SNP/SND <u>WILL</u> wear restraints and be escorted according to custody classification when leaving cell. The Duty Brig Supervisor will be notified prior to SNP/SND moving outside any area outside Special Quarters. Control Center Supervisor will commence facility lockdown.</p> <p>b. SNP/SND <u>IS</u> authorized recreation call; <u>IS</u> authorized television call; <u>IS</u> authorized library call; <u>IS NOT</u> authorized to conduct calisthenics in cell.</p> <p>c. SNP/SND <u>IS</u> authorized to make/receive phone calls</p> <p>d. SNP/SND <u>IS</u> authorized Weekend/holiday visitation in a non-contact booth.</p> <p>e. SNP/SND <u>IS NOT</u> authorized to lie on rack between reveille and taps unless on medical bed rest. Bed rest will be verified by a profile from medical personnel.</p> <p>f. SNP/SND <u>IS</u> authorized to speak to occupants of other cells in a low conversational tone.</p> <p>g. SNP/SND <u>IS NOT</u> authorized to keep any gear inside his cell with the exception of; one rules and regulations, one religious book, one toilet paper roll, one mattress, one underwear, and one POI blanket.</p> <p>h. SNP/SND <u>WILL</u> remain in cell during fire drills unless otherwise directed by the Commanding Officer, Brig Supervisor, Operations Chief, or the DBS.</p> <p>i. SNP/SND <u>WILL</u> come to the position of attention in front of hatch upon entry of any commissioned officer and <u>WILL</u> remain at attention until told to carry on. SNP/SND <u>WILL</u> address all duty personnel (enlisted) by their rank at parade rest. SNP/SND <u>WILL</u> be required to stand at the position of attention for count until carry on is sounded.</p> <p>j. SNP/SND <u>WILL</u> eat in cell with a metal spoon / plastic utensils only.</p> <p>k. SNP/SND <u>WILL</u> have sick call, medication call, and chaplain visits conducted at cell hatch. Command and legal visits will be conducted at cell or in a non-contact booth.</p>			
9. ADDITIONAL INSTRUCTIONS			
<p>a. SNP/SND <u>WILL</u> receive correspondence material from 2020-2120 to include mail, legal papers, letter paper, envelopes, DD510 Forms, and one pencil or pen.</p> <p>b. SNP/SND <u>WILL</u> receive hygiene items in accordance with the POD only.</p>			
10. STATEMENT OF UNDERSTANDING			
<p><i>Br</i> I certify that I have been briefed regarding the above instructions and understand them and my responsibilities.</p>			
11. INMATE			
a. NAME (LAST, FIRST MI) MANNING, BRADLEY E.		b. SIGNATURE 	c. DATE (YYYYMMDD) 20100802
12. DUTY BRIG SUPERVISOR			
a. NAME (LAST, FIRST MI)		b. SIGNATURE	c. DATE (YYYYMMDD) 20100802
13. COMMANDING OFFICER REVIEW			
a. NAME, GRADE, TITLE AVERHART JR., J.T. / CWO4 / COMMANDING OFFICER		b. SIGNATURE 	c. DATE (YYYYMMDD) 20100802

BRIG FORM 4205, AUG 2009

SPECIAL HANDLING INSTRUCTIONS

REPORT DATE (YYYYMMDD)

20100809

INMATE NAME (LAST, FIRST MI.) MANNING BRADLEY E.		2. SSN [REDACTED]	3. RCN [REDACTED]
4. CUSTODY LEVEL MAX	5. STATUS DET	6. SPECIAL DETAIL SUICIDE RISK	
7. QUARTERS / ROW / CELL # SQ-1 / A / 191			

8. SPECIAL INSTRUCTIONS

a. SNP/SND WILL wear restraints and be escorted according to custody classification when leaving cell. The Duty Brig Supervisor will be notified prior to SNP/SND moving outside any area outside Special Quarters. Control Center Supervisor will commence facility lockdown.

b. SNP/SND IS authorized sunshine call; IS authorized television call, IS authorized library call, IS NOT authorized to conduct calisthenics in cell. (SEE ADDITIONAL INSTRUCTIONS BELOW)

c. SNP/SND IS authorized to make/receive phone calls.

d. SNP/SND IS authorized Weekend/Holiday visitation in a non-contact booth.

e. SNP/SND IS NOT authorized to lie on rack between revolve and taps unless on medical bed rest. Bed rest will be verified by a profile from medical personnel.

f. SNP/SND IS authorized to speak to occupants of other cells in a low conversational tone.

g. SNP/SND IS NOT authorized to keep any gear inside his cell with the exception of, one rules and regulations, one religious book, one mattress, and one POI blanket. All other gear will be stored outside of cell.

h. SNP/SND WILL remain in cell during fire drills unless otherwise directed by the Commanding Officer, Brig Supervisor, Operations Chief, or the DBS.

i. SNP/SND WILL come to the position of attention in front of hatch upon entry of any commissioned officer and WILL remain at attention until told to carry on. SNP/SND WILL address all duty personnel (enlisted) by their rank at parade rest. SNP/SND WILL be required to stand at the position of attention for count until carry on is sounded.

j. SNP/SND WILL eat in cell with a METAL SPOON ONLY.

k. SNP/SND WILL have sick call, medication call, and chaplain visits conducted at cell hatch. Command and legal visits will be conducted at cell or in a non-contact booth.

9. ADDITIONAL INSTRUCTIONS

a. SNP/SND WILL receive correspondence material from 2020-2120 to include mail, legal papers, letter paper, envelopes, DD510 Forms, and one pencil or pen.

b. SNP/SND WILL receive hygiene items in accordance with the POD only.


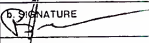

c. SNP/SND WILL receive a 20 minute sunshine call in the special quarters recreation yard only while the Brig Officer, Brig Supervisor or Operations Chief are aboard the facility.

d. SNP/SND will wear a **SECOND CHANCE VEST WHEN LEAVING THE FACILITY AT ALL TIMES.**

10. STATEMENT OF UNDERSTANDING
I, SEN certify that I have been briefed regarding the above instructions and understand them and my responsibilities.

11. INMATE		
a. NAME (LAST, FIRST MI.) MANNING BRADLEY E.	b. SIGNATURE 	c. DATE (YYYYMMDD) 20100809
12. DUTY BRIG SUPERVISOR		
a. NAME (LAST, FIRST MI.) <u>ALLORCOCK, S.D.</u>	b. SIGNATURE 	c. DATE (YYYYMMDD) 20100809
13. COMMANDING OFFICER REVIEW		
a. NAME, GRADE, TITLE AVERHART JR., J.T. / CW04 / COMMANDING OFFICER	b. SIGNATURE 	c. DATE (YYYYMMDD) 20100809

BRIG FORM 4205, AUG 2009

SPECIAL HANDLING INSTRUCTIONS			REPORT DATE (YYYYMMDD) 20100811
1. INMATE NAME (LAST, FIRST MI) MANNING, BRADLEY E.		2. SSN [REDACTED]	3. RCN [REDACTED]
4. CUSTODY LEVEL MAX	5. STATUS DET	6. SPECIAL DETAIL PREVENTION OF INJURY	
7. QUARTERS / ROW / CELL # SQ-1 / A / 104 ¹⁹²			
8. SPECIAL INSTRUCTIONS			
<p>a. <u>SNP/SND WILL</u> wear restraints and be escorted according to custody classification when leaving cell. The Duty Brig Supervisor will be notified prior to SNP/SND moving outside any area outside Special Quarters. Control Center Supervisor will commence facility lockdown.</p> <p>b. <u>SNP/SND IS</u> authorized sunshine call, <u>IS</u> authorized television call, <u>IS</u> authorized library call, <u>IS NOT</u> authorized to conduct call/ethics in cell. (SEE ADDITIONAL INSTRUCTIONS BELOW)</p> <p>c. <u>SNP/SND IS</u> authorized to make/receive phone calls</p> <p>d. <u>SNP/SND IS</u> authorized Weekend/Holiday visitation in a non-contact booth.</p> <p>e. <u>SNP/SND IS NOT</u> authorized to lie on rack between reveille and taps unless on medical bed rest. Bed rest will be verified by a profile from medical personnel.</p> <p>f. <u>SNP/SND IS</u> authorized to speak to occupants of other cells in a low conversational tone</p> <p>g. <u>SNP/SND IS NOT</u> authorized to keep any gear inside his cell with the exception of: one rules and regulations, one mattress, and one set P1 gear (during hours of reveille). SNP/SND will receive one underwear and one POI blanket during hours of taps. (SEE ADDITIONAL INSTRUCTIONS BELOW)</p> <p>h. <u>SNP/SND WILL</u> remain in cell during fire drills unless otherwise directed by the Commanding Officer, Brig Supervisor, Operations Chief, or the DBS.</p> <p>i. <u>SNP/SND WILL</u> come to the position of attention in front of hatch upon entry of any commissioned officer and <u>WILL</u> remain at attention until told to carry on. SNP/SND <u>WILL</u> address all duty personnel (enlisted) by their rank at parade rest. SNP/SND <u>WILL</u> be required to stand at the position of attention for count until carry on is sounded.</p> <p>j. <u>SNP/SND WILL</u> eat in cell with a metal spoon only.</p> <p>k. <u>SNP/SND WILL</u> have sick call, medication call, and chaplain visits conducted at cell hatch. Command and legal visits will be conducted at cell or in a non-contact booth.</p>			
9. ADDITIONAL INSTRUCTIONS			
<p>a. SNP/SND WILL receive correspondence material from 2020-2120 to include mail, legal papers, envelopes, DD510 forms, one pencil or pen, and one book (religious or non-religious)</p> <p>b. SNP/SND WILL receive hygiene items in accordance with the POD only.</p> <p>c. SNP/SND WILL receive a 20 minute sunshine call in the special quarters recreation yard.</p> <p>d. All gear will be removed from cell after Taps with the exception of one mattress, one underwear and one POI blanket.</p> <p>e. SNP/SND will wear a SECOND CHANCE VEST WHEN LEAVING THE FACILITY ON TEMPORARY ABSENCE AT ALL TIMES.</p>			
10. STATEMENT OF UNDERSTANDING			
<p><u>SNP</u> I certify that I have been briefed regarding the above instructions and understand them and my responsibilities</p>			
11. INMATE			
a. NAME (LAST, FIRST MI) MANNING, BRADLEY E.		b. SIGNATURE 	c. DATE (YYYYMMDD) 20100811
12. DUTY BRIG SUPERVISOR			
a. NAME (LAST, FIRST MI) Jordan, Ryan N		b. SIGNATURE 	c. DATE (YYYYMMDD) 20100811
13. COMMANDING OFFICER REVIEW			
a. NAME, GRADE, TITLE AVERHART JR., J.T. / CWO4 / COMMANDING OFFICER		b. SIGNATURE 	c. DATE (YYYYMMDD) 20100811


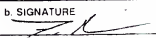
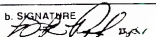
BRIG FORM 4205, AUG 2009

SPECIAL HANDLING INSTRUCTIONS				REPORT DATE (YYYYMMDD) 20100819
1. INMATE NAME (LAST, FIRST MI) MANNING, BRADLEY E.		2. SSN [REDACTED]		3. RCN [REDACTED]
4. CUSTODY LEVEL MAX	5. STATUS DET	6. SPECIAL DETAIL PREVENTION OF INJURY		7. QUARTERS / ROW / CELL # SQ-1 / B / 221
8. SPECIAL INSTRUCTIONS				
<p>a. SNP/SND <u>WILL</u> wear restraints and be escorted according to custody classification when leaving cell. The Duty Brig Supervisor will be notified prior to SNP/SND moving outside any area outside Special Quarters. Control Center Supervisor will commence facility lockdown</p> <p>b. SNP/SND <u>IS</u> authorized sunshine call; <u>IS</u> authorized television call; <u>IS</u> authorized library call; <u>IS NOT</u> authorized to conduct calisthenics in cell. (SEE ADDITIONAL INSTRUCTIONS BELOW)</p> <p>c. SNP/SND <u>IS</u> authorized to make/receive phone calls</p> <p>d. SNP/SND <u>IS</u> authorized Weekend/Holiday visitation in a non-contact booth.</p> <p>e. SNP/SND <u>IS NOT</u> authorized to lie on rack between reveille and taps unless on medical bed rest. Bed rest will be verified by a profile from medical personnel</p> <p>f. SNP/SND <u>IS</u> authorized to speak to occupants of other cells in a low conversational tone.</p> <p>g. SNP/SND <u>IS NOT</u> authorized to keep any gear inside his cell with the exception of: one rules and regulations, one mattress, and one set P.I. gear (during hours of reveille) SNP/SND will receive one underwear and one POI blanket during hours of taps. (SEE ADDITIONAL INSTRUCTIONS BELOW)</p> <p>h. SNP/SND <u>WILL</u> remain in cell during fire drills unless otherwise directed by the Commanding Officer, Brig Supervisor, Operations Chief, or the DBS.</p> <p>i. SNP/SND <u>WILL</u> come to the position of attention in front of hatch upon entry of any commissioned officer and <u>WILL</u> remain at attention until told to carry on. SNP/SND <u>WILL</u> address all duty personnel (enlisted) by their rank at parade rest. SNP/SND <u>WILL</u> be required to stand at the position of attention for count until carry on is sounded.</p> <p>j. SNP/SND <u>WILL</u> eat in cell with a metal spoon only</p> <p>k. SNP/SND <u>WILL</u> have sick call, medication call, and chaplain visits conducted at cell hatch. Command and legal visits will be conducted at cell or in a non-contact booth.</p>				
9. ADDITIONAL INSTRUCTIONS				
a. SNP/SND <u>WILL</u> receive correspondence material from 2020-2120 to include mail, legal papers, envelopes, DD510 forms, one pencil or pen, and one book (religious or non-religious)				
b. SNP/SND <u>WILL</u> receive hygiene items in accordance with the POD only.				
c. SNP/SND <u>WILL</u> receive a 20 minute sunshine call in the special quarters recreation yard.				
d. All gear will be removed from cell after Taps with the exception of one mattress, one underwear and one POI blanket.				
e. SNP/SND will wear a SECOND CHANCE VEST WHEN LEAVING THE FACILITY ON TEMPORARY ABSENCE AT ALL TIMES.				
10. STATEMENT OF UNDERSTANDING				
I, <u>ELM</u> certify that I have been briefed regarding the above instructions and understand them and my responsibilities.				
11. INMATE				
a. NAME (LAST, FIRST MI) MANNING, BRADLEY E.		b. SIGNATURE <u>[Signature]</u>	c. DATE (YYYYMMDD) 20100819	
12. DUTY BRIG SUPERVISOR				
a. NAME (LAST, FIRST MI) <u>Henry M.L. 56T / DBS</u>		b. SIGNATURE <u>[Signature]</u>	c. DATE (YYYYMMDD) 20100819	
13. COMMANDING OFFICER REVIEW				
a. NAME, GRADE, TITLE AVERHART JR., J.T. / CWO4 / COMMANDING OFFICER		b. SIGNATURE <u>[Signature]</u>	c. DATE (YYYYMMDD) 20100819	

BRIG FORM 4205, AUG 2009

SPECIAL HANDLING INSTRUCTIONS			REPORT DATE (YYYYMMDD) 20100830
1. INMATE NAME (LAST, FIRST MI.) MANNING, BRADLEY E.		2. SSN [REDACTED]	3. RCN [REDACTED]
4. CUSTODY LEVEL MAX	5. STATUS DET	6. SPECIAL DETAIL PREVENTION OF INJURY	7. QUARTERS / ROW / CELL # SQ-1 / B / 221 191
8. SPECIAL INSTRUCTIONS			
<p>a. SNP/SND <u>WILL</u> wear restraints and be escorted according to custody classification when leaving cell. The Duty Brig Supervisor will be notified prior to SNP/SND moving outside any area outside Special Quarters. Control Center Supervisor will commence facility lockdown.</p> <p>b. SNP/SND <u>IS</u> authorized sunshine call; <u>IS</u> authorized television call; <u>IS</u> authorized library call; <u>IS NOT</u> authorized to conduct calisthenics in cell. (SEE ADDITIONAL INSTRUCTIONS BELOW)</p> <p>c. SNP/SND <u>IS</u> authorized to make/receive phone calls.</p> <p>d. SNP/SND <u>IS</u> authorized Weekend/Holiday visitation in a non-contact booth.</p> <p>e. SNP/SND <u>IS NOT</u> authorized to lie on rack between reveille and taps unless on medical bed rest. Bed rest will be verified by a profile from medical personnel.</p> <p>f. SNP/SND <u>IS</u> authorized to speak to occupants of other cells in a low conversational tone.</p> <p>g. SNP/SND <u>IS NOT</u> authorized to keep any gear inside his cell with the exception of, one rules and regulations, one book (religious or non-religious), one mattress, one set PT gear, and one pair shower shoes. SNP/SND will receive one underwear and one POI blanket during hours of taps. (SEE ADDITIONAL INSTRUCTIONS BELOW). SNP/SND will receive toilet paper upon request only.</p> <p>h. SNP/SND <u>WILL</u> remain in cell during fire drills unless otherwise directed by the Commanding Officer, Brig Supervisor, Operations Chief, or the DBS.</p> <p>i. SNP/SND <u>WILL</u> come to the position of attention in front of hatch upon entry of any commissioned officer and <u>WILL</u> remain at attention until told to carry on. SNP/SND <u>WILL</u> address all duty personnel (enlisted) by their rank at parade rest. SNP/SND <u>WILL</u> be required to stand at the position of attention for count until carry on is sounded.</p> <p>j. SNP/SND <u>WILL</u> eat in cell with a metal spoon only.</p> <p>k. SNP/SND <u>WILL</u> have sick call, medication call, and chaplain visits conducted at cell hatch. Command and legal visits will be conducted at cell or in a non-contact booth.</p>			
9. ADDITIONAL INSTRUCTIONS			
a. SNP/SND <u>WILL</u> receive correspondence material from 2020-2120 to include mail, legal papers, envelopes, DD510 forms, and one pencil or pen.			
b. SNP/SND <u>WILL</u> receive hygiene items in accordance with the POD only.			
c. SNP/SND <u>WILL</u> receive a 20 minute sunshine call in the special quarters recreation yard.			
d. All gear will be removed from cell after Taps with the exception of one mattress, one underwear and one POI blanket.			
e. SNP/SND will wear a SECOND CHANCE VEST WHEN LEAVING THE FACILITY ON TEMPORARY ABSENCE AT ALL TIMES.			
10. STATEMENT OF UNDERSTANDING			
I, <u>Brig</u> certify that I have been briefed regarding the above instructions and understand them and my responsibilities.			
11. INMATE			
a. NAME (LAST, FIRST MI.) MANNING, BRADLEY E.		b. SIGNATURE <u>[Signature]</u>	c. DATE (YYYYMMDD) 20100830
12. DUTY BRIG SUPERVISOR		b. SIGNATURE <u>[Signature]</u>	c. DATE (YYYYMMDD) 20100830
a. NAME (LAST, FIRST MI.) <u>Hanus, [Signature]</u>		b. SIGNATURE <u>[Signature]</u>	c. DATE (YYYYMMDD) 20100830
13. COMMANDING OFFICER REVIEW			
a. NAME, GRADE, TITLE AVERHART JR., J.T. / CWO4 / COMMANDING OFFICER		b. SIGNATURE <u>[Signature]</u>	c. DATE (YYYYMMDD) 20100830

BRIG FORM 4205, AUG 2009

SPECIAL HANDLING INSTRUCTIONS			REPORT DATE (YYYYMMDD) 20101008
1. INMATE NAME (LAST, FIRST MI.) MANNING, BRADLEY E.		2. SSN [REDACTED]	3. RCN [REDACTED]
4. CUSTODY LEVEL MAX	5. STATUS DET	6. SPECIAL DETAIL PREVENTION OF INJURY	7. QUARTERS / ROW / CELL # SQ-1 / B / 191
<p>8. SPECIAL INSTRUCTIONS</p> <p>a. SNP/SND <u>WILL</u> wear restraints and be escorted according to custody classification when leaving cell. The Duty Brig Supervisor will be notified prior to SNP/SND moving outside any area outside Special Quarters. Control Center Supervisor will commence facility lockdown.</p> <p>b. SNP/SND <u>IS</u> authorized sunshine call; <u>IS</u> authorized television call; <u>IS</u> authorized library call; <u>IS NOT</u> authorized to conduct calisthenics in cell. (SEE ADDITIONAL INSTRUCTIONS BELOW)</p> <p>c. SNP/SND <u>IS</u> authorized to make/receive phone calls.</p> <p>d. SNP/SND <u>IS</u> authorized Weekend/Holiday visitation in a non-contact booth.</p> <p>e. SNP/SND <u>IS NOT</u> authorized to lie on rack between reveille and taps unless on medical bed rest. Bed rest will be verified by a profile from medical personnel.</p> <p>f. SNP/SND <u>IS</u> authorized to speak to occupants of other cells in a low conversational tone.</p> <p>g. SNP/SND <u>IS NOT</u> authorized to keep any gear inside his cell with the exception of: one rules and regulations, one book (religious or non-religious), one mattress, one set PT gear, and one pair shower shoes. SNP/SND will receive one underwear and one POI blanket during hours of taps. (SEE ADDITIONAL INSTRUCTIONS BELOW). SNP/SND will receive toilet paper upon request only.</p> <p>h. SNP/SND <u>WILL</u> remain in cell during fire drills unless otherwise directed by the Commanding Officer, Brig Supervisor, Operations Chief, or the DBS.</p> <p>i. SNP/SND <u>WILL</u> come to the position of attention in front of hatch upon entry of any commissioned officer and <u>WILL</u> remain at attention until told to carry on. SNP/SND <u>WILL</u> address all duty personnel (enlisted) by their rank at parade rest. SNP/SND <u>WILL</u> be required to stand at the position of attention for court until carry on is sounded.</p> <p>j. SNP/SND <u>WILL</u> eat in cell with a metal spoon only.</p> <p>k. SNP/SND <u>WILL</u> have sick call, medication call, and chaplain visits conducted at cell hatch. Command and legal visits will be conducted at cell or in a non-contact booth.</p>			
<p>9. ADDITIONAL INSTRUCTIONS</p> <p>a. SNP/SND WILL receive correspondence material from 2020-2120 to include mail, legal papers, envelopes, DD510 forms, and one pencil or pen.</p> <p>b. SNP/SND WILL receive hygiene items in accordance with the POD only.</p> <p>c. SNP/SND WILL receive a 20 minute sunshine call in the special quarters recreation yard.</p> <p>d. All gear will be removed from cell after Taps with the exception of one mattress, one underwear and one POI blanket.</p> <p>e. SNP/SND will wear a SECOND CHANCE VEST AND KEVLAR WHEN LEAVING THE FACILITY ON TEMPORARY ABSENCE AT ALL TIMES.</p>			
<p>10. STATEMENT OF UNDERSTANDING</p> <p>I certify that I have been briefed regarding the above instructions and understand them and my responsibilities.</p>			
11. INMATE			
a. NAME (LAST, FIRST MI.) MANNING, BRADLEY E.		b. SIGNATURE 	c. DATE (YYYYMMDD) 20101008
12. DUTY BRIG SUPERVISOR			
a. NAME (LAST, FIRST MI.) ALLODGE, S. D.		b. SIGNATURE 	c. DATE (YYYYMMDD) 20101008
13. COMMANDING OFFICER REVIEW			
a. NAME, GRADE, TITLE AVERHART JR., J.T. / CWO4 / COMMANDING OFFICER		b. SIGNATURE 	c. DATE (YYYYMMDD) 20101008

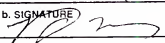
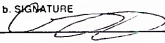

BRIG FORM 4205, AUG 2009

SPECIAL HANDLING INSTRUCTIONS			REPORT DATE (YYYYMMDD) 20101014
1. INMATE NAME (LAST, FIRST MI.) MANNING, BRADLEY E.		2. SSN [REDACTED]	3. RCN [REDACTED]
4. CUSTODY LEVEL MAX	5. STATUS DET	6. SPECIAL DETAIL PREVENTION OF INJURY	7. QUARTERS / ROW / CELL # SQ-1 / A / 191
8. SPECIAL INSTRUCTIONS			
<p>a. SNP/SND <u>WILL</u> wear restraints and be escorted according to custody classification when leaving cell. The Duty Brig Supervisor will be notified prior to SNP/SND moving outside any area outside Special Quarters. Control Center Supervisor will commence facility lockdown.</p> <p>b. SNP/SND <u>IS</u> authorized sunshine call; <u>IS</u> authorized television call; <u>IS</u> authorized library call; <u>IS NOT</u> authorized to conduct calisthenics in cell. (SEE ADDITIONAL INSTRUCTIONS BELOW)</p> <p>c. SNP/SND <u>IS</u> authorized to make/receive phone calls.</p> <p>d. SNP/SND <u>IS</u> authorized Weekend/Holiday visitation in a non-contact booth.</p> <p>e. SNP/SND <u>IS NOT</u> authorized to lie on rack between reveille and taps unless on medical bed rest. Bed rest will be verified by a profile from medical personnel.</p> <p>f. SNP/SND <u>IS</u> authorized to speak to occupants of other cells in a low conversational tone.</p> <p>g. SNP/SND <u>IS NOT</u> authorized to keep any gear inside his cell with the exception of: one rules and regulations, one book (religious or non-religious), one mattress, one set PT gear, and one pair shower shoes. SNP/SND will receive one underwear and one POI blanket during hours of taps. (SEE ADDITIONAL INSTRUCTIONS BELOW). SNP/SND will receive toilet paper upon request only.</p> <p>h. SNP/SND <u>WILL</u> remain in cell during fire drills unless otherwise directed by the Commanding Officer, Brig Supervisor, Operations Chief, or the DBS.</p> <p>i. SNP/SND <u>WILL</u> come to the position of attention in front of hatch upon entry of any commissioned officer and <u>WILL</u> remain at attention until told to carry on. SNP/SND <u>WILL</u> address all duty personnel (enlisted) by their rank at parade rest. SNP/SND <u>WILL</u> be required to stand at the position of attention for count until carry on is sounded.</p> <p>j. SNP/SND <u>WILL</u> eat in cell with a metal spoon only.</p> <p>k. SNP/SND <u>WILL</u> have sick call, medication call, and chaplain visits conducted at cell hatch. Command and legal visits will be conducted at cell or in a non-contact booth.</p>			
9. ADDITIONAL INSTRUCTIONS			
a. SNP/SND WILL receive correspondence material from 2020-2120 to include mail, legal papers, envelopes, DD510 forms, and one pencil or pen.			
b. SNP/SND WILL receive hygiene items in accordance with the POD only.			
c. SNP/SND WILL receive a 20 minute sunshine call in the special quarters recreation yard.			
d. All gear will be removed from cell after Taps with the exception of one mattress, one underwear and one POI blanket.			
e. SNP/SND will wear a SECOND CHANCE VEST AND KEVLAR WHEN LEAVING THE FACILITY ON TEMPORARY ABSENCE AT ALL TIMES.			
10. STATEMENT OF UNDERSTANDING			
X I certify that I have been briefed regarding the above instructions and understand them and my responsibilities.			
11. INMATE			
a. NAME (LAST, FIRST MI.) MANNING, BRADLEY E.		b. SIGNATURE [Signature]	c. DATE (YYYYMMDD) 20101014
12. DUTY BRIG SUPERVISOR			
a. NAME (LAST, FIRST MI.) AVERHART, SOPH P.		b. SIGNATURE [Signature]	c. DATE (YYYYMMDD) 20101014
13. COMMANDING OFFICER REVIEW			
a. NAME, GRADE, TITLE AVERHART JR., J.T. / CWO4 / COMMANDING OFFICER		b. SIGNATURE [Signature]	c. DATE (YYYYMMDD) 20101014

BRIG FORM 4205, AUG 2009

SPECIAL HANDLING INSTRUCTIONS			REPORT DATE (YYYYMMDD) 20101020
1. INMATE NAME (LAST, FIRST MI) MANNING, BRADLEY E.		2. SSN [REDACTED]	3. RCN [REDACTED]
4. CUSTODY LEVEL MAX	5. STATUS DET	6. SPECIAL DETAIL PREVENTION OF INJURY	7. QUARTERS / ROW / CELL # SQ-1 / A / 191
<p>8. SPECIAL INSTRUCTIONS</p> <p>a. SNP/SND <u>WILL</u> wear restraints and be escorted according to custody classification when leaving cell. The Duty Brig Supervisor will be notified prior to SNP/SND moving outside any area outside Special Quarters. Control Center Supervisor will commence facility lockdown.</p> <p>b. SNP/SND <u>IS</u> authorized sunshine call; <u>IS</u> authorized television call; <u>IS</u> authorized library call; <u>IS NOT</u> authorized to conduct calisthenics in cell. (SEE ADDITIONAL INSTRUCTIONS BELOW)</p> <p>c. SNP/SND <u>IS</u> authorized to make/receive phone calls</p> <p>d. SNP/SND <u>IS</u> authorized Weekend/Holiday visitation in a non-contact booth</p> <p>e. SNP/SND <u>IS NOT</u> authorized to lie on rack between reveille and taps unless on medical bed rest. Bed rest will be verified by a profile from medical personnel.</p> <p>f. SNP/SND <u>IS</u> authorized to speak to occupants of other cells in a low conversational tone</p> <p>g. SNP/SND <u>IS NOT</u> authorized to keep any gear inside his cell with the exception of: one rules and regulations, one book (religious or non-religious), one mattress, one set PT gear, one pair shower shoes and one POI blanket. SNP/SND will receive one undi-wear and one additional POI blanket during hours of taps. (SEE ADDITIONAL INSTRUCTIONS BELOW). SNP/SND will receive toilet paper upon request only.</p> <p>h. SNP/SND <u>WILL</u> remain in cell during fire drills unless otherwise directed by the Commanding Officer, Brig Supervisor, Operations Chief, or the DBS.</p> <p>i. SNP/SND <u>WILL</u> come to the position of attention in front of hatch upon entry of any commissioned officer and <u>WILL</u> remain at attention until told to carry on. SNP/SND <u>WILL</u> address all duty personnel (enlisted) by their rank at parade rest. SNP/SND <u>WILL</u> be required to stand at the position of attention for count until carry on is sounded</p> <p>j. SNP/SND <u>WILL</u> eat in cell with a metal spoon only.</p> <p>k. SNP/SND <u>WILL</u> have sick call, medication call, and chaplain visits conducted at cell hatch. Command and legal visits will be conducted at cell or in a non-contact booth.</p>			
<p>9. ADDITIONAL INSTRUCTIONS</p> <p>a. SNP/SND <u>WILL</u> receive correspondence material from 2020-2120 to include mail, legal papers, envelopes, DD510 forms, and one pencil or pen.</p> <p>b. SNP/SND <u>WILL</u> receive hygiene items in accordance with the POD only.</p> <p>c. SNP/SND <u>WILL</u> receive a 20 minute sunshine call in the special quarters recreation yard.</p> <p>d. All gear will be removed from cell after Taps with the exception of one mattress, one underwear and two POI blankets.</p> <p>e. SNP/SND will wear a SECOND CHANCE VEST AND KEVLAR WHEN LEAVING THE FACILITY ON TEMPORARY ABSENCE AT ALL TIMES.</p>			
<p>10. STATEMENT OF UNDERSTANDING</p> <p>____ I certify that I have been briefed regarding the above instructions and understand them and my responsibilities.</p>			
11. INMATE			
a. NAME (LAST, FIRST MI) MANNING, BRADLEY E.		b. SIGNATURE [Signature]	c. DATE (YYYYMMDD) 20101020
12. DUTY BRIG SUPERVISOR			
a. NAME (LAST, FIRST MI) Charnell S. L.		b. SIGNATURE [Signature]	c. DATE (YYYYMMDD) 20101020
13. COMMANDING OFFICER REVIEW			
a. NAME, GRADE, TITLE AVERHART JR., J. T. / CWO4 / COMMANDING OFFICER		b. SIGNATURE [Signature]	c. DATE (YYYYMMDD) 20101020

BRIG FORM 4205, AUG 2009

SPECIAL HANDLING INSTRUCTIONS			REPORT DATE (YYYYMMDD) 20101027
1. INMATE NAME (LAST, FIRST MI.) MANNING, BRADLEY E.		2. SSN [REDACTED]	3. RCN [REDACTED]
4. CUSTODY LEVEL MAX	5. STATUS DET	6. SPECIAL DETAIL PREVENTION OF INJURY	7. QUARTERS / ROW / CELL # SQ-1 / A / 191
8. SPECIAL INSTRUCTIONS			
<p>a. SNP/SND <u>WILL</u> wear restraints and be escorted according to custody classification when leaving cell. The Duty Brig Supervisor will be notified prior to SNP/SND moving outside any area outside Special Quarters. Control Center Supervisor will commence facility lockdown</p> <p>b. SNP/SND <u>IS</u> authorized sunshine call; <u>IS</u> authorized television call; <u>IS</u> authorized library call; <u>IS NOT</u> authorized to conduct calisthenics in cell. (SEE ADDITIONAL INSTRUCTIONS BELOW)</p> <p>c. SNP/SND <u>IS</u> authorized to make/receive phone calls</p> <p>d. SNP/SND <u>IS</u> authorized Weekend/Holiday visitation in a non-contact booth.</p> <p>e. SNP/SND <u>IS NOT</u> authorized to lie on rack between reveille and taps unless on medical bed rest. Bed rest will be verified by a profile from medical personnel</p> <p>f. SNP/SND <u>IS</u> authorized to speak to occupants of other cells in a low conversational tone.</p> <p>g. SNP/SND <u>IS NOT</u> authorized to keep any gear inside his cell with the exception of, one rules and regulations, one book (religious or non-religious), one mattress, one set PT gear (sweat pants and top are authorized), one pair shower shoes and one POI blanket. SNP/SND will receive one underwear and one additional POI blanket during hours of taps. (SEE ADDITIONAL INSTRUCTIONS BELOW). SNP/SND will receive toilet paper upon request only.</p> <p>h. SNP/SND <u>WILL</u> remain in cell during fire drills unless otherwise directed by the Commanding Officer, Brig Supervisor, Operations Chief, or the DBS.</p> <p>i. SNP/SND <u>WILL</u> come to the position of attention in front of hatch upon entry of any commissioned officer and <u>WILL</u> remain at attention until told to carry on. SNP/SND <u>WILL</u> address all duty personnel (enlisted) by their rank at parade rest. SNP/SND <u>WILL</u> be required to stand at the position of attention for count until carry on is sounded.</p> <p>j. SNP/SND <u>WILL</u> eat in cell with a metal spoon only.</p> <p>k. SNP/SND <u>WILL</u> have sick call, medication call, and chaplain visits conducted at cell hatch. Command and legal visits will be conducted at cell or in a non-contact booth.</p>			
9. ADDITIONAL INSTRUCTIONS			
a. SNP/SND WILL receive correspondence material from 1920-2120 to include mail, legal papers, envelopes, DD510 forms, and one pencil or pen.			
b. SNP/SND WILL receive hygiene items in accordance with the POD only.			
c. SNP/SND WILL receive a 20 minute sunshine call in the special quarters recreation yard.			
d. All gear will be removed from cell after Taps with the exception of one mattress, one underwear and two POI blankets.			
e. SNP/SND will wear a SECOND CHANCE VEST AND KEVLAR WHEN LEAVING THE FACILITY ON TEMPORARY ABSENCE AT ALL TIMES			
10. STATEMENT OF UNDERSTANDING			
____ I certify that I have been briefed regarding the above instructions and understand them and my responsibilities.			
11. INMATE			
a. NAME (LAST, FIRST MI.) MANNING, BRADLEY E.	b. SIGNATURE 	c. DATE (YYYYMMDD) 20101027	
12. DUTY BRIG SUPERVISOR			
a. NAME (LAST, FIRST MI.) GIST Denis C.M.	b. SIGNATURE 	c. DATE (YYYYMMDD) 20101027	
13. COMMANDING OFFICER REVIEW			
a. NAME, GRADE, TITLE AVERHART JR., J.T. / CWO4 / COMMANDING OFFICER	b. SIGNATURE 	c. DATE (YYYYMMDD) 20101027	

BRIG FORM 4205, AUG 2009

SPECIAL HANDLING INSTRUCTIONS			REPORT DATE (YYYYMMDD) 20101115
1. INMATE NAME (LAST, FIRST MI.) MANNING, BRADLEY E.		2. SSN [REDACTED]	3. RCN [REDACTED]
4. CUSTODY LEVEL MAX	5. STATUS DET	6. SPECIAL DETAIL PREVENTION OF INJURY	
7. QUARTERS / ROW / CELL # SQ-1 / A / 191			
8. SPECIAL INSTRUCTIONS			
<p>a. SNP/SND <u>WILL</u> wear restraints and be escorted according to custody classification when leaving cell. The Duty Brig Supervisor will be notified prior to SNP/SND moving outside any area outside Special Quarters. Control Center Supervisor will commence facility lockdown.</p> <p>b. SNP/SND <u>IS</u> authorized sunshine call; <u>IS</u> authorized television call; <u>IS</u> authorized library call; <u>IS NOT</u> authorized to conduct calisthenics in cell. (SEE ADDITIONAL INSTRUCTIONS BELOW)</p> <p>c. SNP/SND <u>IS</u> authorized to make/receive phone calls.</p> <p>d. SNP/SND <u>IS</u> authorized Weekend/Holiday visitation in a non-contact booth</p> <p>e. SNP/SND <u>IS NOT</u> authorized to lie on rack between reveille and taps unless on medical bed rest. Bed rest will be verified by a profile from medical personnel.</p> <p>f. SNP/SND <u>IS</u> authorized to speak to occupants of other cells in a low conversational tone</p> <p>g. SNP/SND <u>IS NOT</u> authorized to keep any gear inside his cell with the exception of, one rules and regulations, one book (religious or non-religious), one mattress, one set PT gear (sweat pants and top are authorized), one pair shower shoes and one POI blanket. SNP/SND will receive one underwear and one additional POI blanket during hours of taps. (SEE ADDITIONAL INSTRUCTIONS BELOW). SNP/SND will receive toilet paper upon request only.</p> <p>h. SNP/SND <u>WILL</u> remain in cell during fire drills unless otherwise directed by the Commanding Officer, Brig Supervisor, Operations Chief, or the DBS.</p> <p>i. SNP/SND <u>WILL</u> come to the position of attention in front of hatch upon entry of any commissioned officer and <u>WILL</u> remain at attention until told to carry on. SNP/SND <u>WILL</u> address all duty personnel (enlisted) by their rank at parade rest. SNP/SND <u>WILL</u> be required to stand at the position of attention for count until carry on is sounded.</p> <p>j. SNP/SND <u>WILL</u> eat in cell with a metal spoon only.</p> <p>k. SNP/SND <u>WILL</u> have sick call, medication call, and chaplain visits conducted at cell hatch. Command and legal visits will be conducted at cell or in a non-contact booth.</p>			
9. ADDITIONAL INSTRUCTIONS			
a. SNP/SND WILL receive correspondence material from 1920-2120 to include mail, legal papers, envelopes, DD510 forms, and one pencil or pen.			
b. SNP/SND WILL receive hygiene items in accordance with the POD only.			
c. SNP/SND WILL receive a 20 minute sunshine call in the special quarters recreation yard.			
d. All gear will be removed from cell after Taps with the exception of one mattress, one underwear and two POI blankets.			
e. SNP/SND will wear a SECOND CHANCE VEST AND KEVLAR WHEN LEAVING THE FACILITY ON TEMPORARY ABSENCE AT ALL TIMES.			
10. STATEMENT OF UNDERSTANDING			
I/We certify that I have been briefed regarding the above instructions and understand them and my responsibilities.			
11. INMATE			
a. NAME (LAST, FIRST MI.) MANNING, BRADLEY E.		b. SIGNATURE [Signature]	c. DATE (YYYYMMDD) 20101115
12. DUTY BRIG SUPERVISOR			
a. NAME (LAST, FIRST MI.) HARRIS, D. W.		b. SIGNATURE [Signature]	c. DATE (YYYYMMDD) 20101115
13. COMMANDING OFFICER REVIEW			
a. NAME, GRADE, TITLE AVERHART JR., J.T. / CWO4 / COMMANDING OFFICER		b. SIGNATURE [Signature]	c. DATE (YYYYMMDD) 20101115


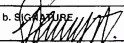

BRIG FORM 4205, AUG 2009

SPECIAL HANDLING INSTRUCTIONS				REPORT DATE (YYYYMMDD) 20101210
1. INMATE NAME (LAST, FIRST MI.) MANNING, BRADLEY E.		2. SSN [REDACTED]		3. RCN [REDACTED]
4. CUSTODY LEVEL MAX	5. STATUS DET	6. SPECIAL DETAIL PREVENTION OF INJURY	7. QUARTERS / ROW / CELL # SQ-1 / A / 192	
8. SPECIAL INSTRUCTIONS				
<p>a. SNP/SND <u>WILL</u> wear restraints and be escorted according to custody classification when leaving cell. The Duty Brig Supervisor will be notified prior to SNP/SND moving outside any area outside Special Quarters. Control Center Supervisor will commence facility lockdown.</p> <p>b. SNP/SND <u>IS</u> authorized recreation call; <u>IS</u> authorized television call; <u>IS</u> authorized library call; <u>IS NOT</u> authorized to conduct callisthenics in cell. (SEE ADDITIONAL INSTRUCTIONS BELOW)</p> <p>c. SNP/SND <u>IS</u> authorized to make/receive phone calls.</p> <p>d. SNP/SND <u>IS</u> authorized Weekend/Holiday visitation in a non-contact booth.</p> <p>e. SNP/SND <u>IS NOT</u> authorized to lie on rack between reveille and taps unless on medical bed rest. Bed rest will be verified by a profile from medical personnel.</p> <p>f. SNP/SND <u>IS</u> authorized to speak to occupants of other cells in a low conversational tone.</p> <p>g. SNP/SND <u>IS NOT</u> authorized to keep any gear inside his cell with the exception of, one rules and regulations, one book (religious or non-religious), one mattress, one set PT gear (sweat pants and top are authorized), one pair shower shoes and one POI blanket. SNP/SND will receive one underwear and one additional POI blanket during hours of taps. (SEE ADDITIONAL INSTRUCTIONS BELOW). SNP/SND will receive toilet paper upon request only.</p> <p>h. SNP/SND <u>WILL</u> remain in cell during fire drills unless otherwise directed by the Commanding Officer, Brig Supervisor, Operations Chief, or the DBS.</p> <p>i. SNP/SND <u>WILL</u> come to the position of attention in front of hatch upon entry of any commissioned officer and <u>WILL</u> remain at attention until told to carry on. SNP/SND <u>WILL</u> address all duty personnel (enlisted) by their rank at parade rest. SNP/SND <u>WILL</u> be required to stand at the position of attention for count until carry on is sounded.</p> <p>j. SNP/SND <u>WILL</u> eat in cell with a metal spoon only.</p> <p>k. SNP/SND <u>WILL</u> have sick call, medication call, and chaplain visits conducted at cell hatch. Command and legal visits will be conducted in a non-contact booth.</p>				
9. ADDITIONAL INSTRUCTIONS				
<p>a. SNP/SND <u>WILL</u> receive correspondence material from 1920-2120 to include mail, legal papers, envelopes, DD510 forms, and one pencil or pen.</p> <p>b. SNP/SND <u>WILL</u> receive hygiene items in accordance with POD only.</p> <p>c. SNP/SND <u>WILL</u> receive a 1 HOUR recreation call in the special quarters recreation yard or inside recreation area in case of inclement weather. SND's restraints will be removed during recreation call.</p> <p>d. All gear will be removed from cell after Taps with the exception of one mattress, one underwear and two POI blankets.</p> <p>e. SNP/SND <u>WILL</u> wear a SECOND CHANCE VEST AND KEVLAR WHEN LEAVING THE FACILITY ON TEMPORARY ABSENCE AT ALL TIMES.</p>				
10. STATEMENT OF UNDERSTANDING				
SNP/SND certify that I have been briefed regarding the above instructions and understand them and my responsibilities.				
11. INMATE				
a. NAME (LAST, FIRST MI.) MANNING, BRADLEY E.		b. SIGNATURE [Signature]		c. DATE (YYYYMMDD) 20101210
12. DUTY BRIG SUPERVISOR				
a. NAME (LAST, FIRST MI.) Garrett, S. A.		b. SIGNATURE [Signature]		c. DATE (YYYYMMDD) 20101210
13. COMMANDING OFFICER REVIEW				
a. NAME, GRADE, TITLE AVERHART JR., J.T. / CWO4, COMMANDING OFFICER		b. SIGNATURE [Signature]		c. DATE (YYYYMMDD) 20101210

SPECIAL HANDLING INSTRUCTIONS				REPORT DATE (YYYYMMDD) 20110118
1. INMATE NAME (LAST, FIRST MI) MANNING, BRADLEY E.		2. SSN [REDACTED]		3. RCN [REDACTED]
4. CUSTODY LEVEL MAX	5. STATUS DET	6. SPECIAL DETAIL SUICIDE RISK	7. QUARTERS / ROW / CELL # SQ-1 / A / 192	
8. SPECIAL INSTRUCTIONS				
<p>a. SNP/SND <u>WILL</u> wear restraints and be escorted according to custody classification when leaving cell. The Duty Brig Supervisor will be notified prior to SNP/SND moving outside any area outside Special Quarters Control Center Supervisor will commence facility lockdown.</p> <p>b. SNP/SND <u>IS</u> authorized sunshine call; <u>IS</u> authorized television call; <u>IS NOT</u> authorized library call; <u>IS NOT</u> authorized to conduct calisthenics in cell.</p> <p>c. SNP/SND <u>IS</u> authorized to make/receive phone calls.</p> <p>d. SNP/SND <u>IS</u> authorized Weekend/holiday visitation in a non-contact booth.</p> <p>e. SNP/SND <u>IS NOT</u> authorized to lie on rack between reveille and taps unless on medical bed rest. Bed rest will be verified by a profile from medical personnel.</p> <p>f. SNP/SND <u>IS</u> authorized to speak to occupants of other cells in a low conversational tone.</p> <p>g. SNP/SND <u>IS NOT</u> authorized to keep any gear inside his cell with the exception of; one mattress, one underwear, one POI blanket and one pair shower shoes. SNP/SND will receive toilet paper upon request only (SEE ADDITIONAL INSTRUCTIONS BELOW)</p> <p>h. SNP/SND <u>WILL</u> remain in cell during fire drills unless otherwise directed by the Commanding Officer, Brig Supervisor, Operations Chief, or the DBS.</p> <p>i. SNP/SND <u>WILL</u> come to the position of attention in front of hatch upon entry of any commissioned officer and <u>WILL</u> remain at attention until told to carry on. SNP/SND <u>WILL</u> address all duty personnel (enlisted) by their rank at parade rest. SNP/SND <u>WILL</u> be required to stand at the position of attention for count until carry on is sounded.</p> <p>j. SNP/SND <u>WILL</u> eat in cell with a <u>METAL SPOON ONLY</u>.</p> <p>k. SNP/SND <u>WILL</u> have sick call, medication call, and chaplain visits conducted at cell hatch. Command and legal visits will be conducted in a non-contact booth.</p>				
9. ADDITIONAL INSTRUCTIONS				
<p>a. SNP/SND <u>WILL NOT</u> receive correspondence material until approved by the Brig OIC.</p> <p>b. SNP/SND <u>WILL</u> receive hygiene items in accordance with POD only.</p> <p>c. SNP/SND <u>MAY</u> receive one book upon request.</p> <p>d. SNP/SND <u>WILL</u> receive one additional POI blanket during hours of TAPS</p> <p>e. SNP/SND <u>will wear a SECOND CHANCE VEST AND KEVLAR WHEN LEAVING THE FACILITY ON TEMPORARY ABSENCE AT ALL TIMES.</u></p> <p>f. SNP/SND <u>will not maintain eyeglasses in his cell. SND may receive eyeglasses while reading or moving outside cell.</u></p>				
10. STATEMENT OF UNDERSTANDING				
<p><u>EM</u> I certify that I have been briefed regarding the above instructions and understand them and my responsibilities.</p>				
11. INMATE				
a. NAME (LAST, FIRST MI) MANNING, BRADLEY E.		b. SIGNATURE 		c. DATE (YYYYMMDD) 20110118
12. DUTY BRIG SUPERVISOR				
a. NAME (LAST, FIRST MI) WERTZ DBS		b. SIGNATURE 		c. DATE (YYYYMMDD) 20110118
13. COMMANDING OFFICER REVIEW				
a. NAME, GRADE, TITLE AVERHART JR., J.T. / CWO4 / COMMANDING OFFICER		b. SIGNATURE 		c. DATE (YYYYMMDD) 20110118

BRIG FORM 4295, AUG 2009

SPECIAL HANDLING INSTRUCTIONS			REPORT DATE (YYYYMMDD) 20110120
1. INMATE NAME (LAST, FIRST MI) MANNING, BRADLEY E.		2. SSN [REDACTED]	3. RCN [REDACTED]
4. CUSTODY LEVEL MAX	5. STATUS DET	6. SPECIAL DETAIL PREVENTION OF INJURY	7. QUARTERS / ROW / CELL # SQ-1 / A / 192
8. SPECIAL INSTRUCTIONS			
<p>a. SNP/SND <u>WILL</u> wear restraints and be escorted according to custody classification when leaving cell. The Duty Brig Supervisor will be notified prior to SNP/SND moving outside any area outside Special Quarters. Control Center Supervisor will commence facility lockdown.</p> <p>b. SNP/SND <u>IS</u> authorized recreation call; <u>IS</u> authorized television call; <u>IS</u> authorized library call; <u>IS NOT</u> authorized to conduct calisthenics in cell (SEE ADDITIONAL INSTRUCTIONS BELOW)</p> <p>c. SNP/SND <u>IS</u> authorized to make/receive phone calls.</p> <p>d. SNP/SND <u>IS</u> authorized Weekend/Holiday visitation in a non-contact booth.</p> <p>e. SNP/SND <u>IS NOT</u> authorized to lie on rack between reveille and taps unless on medical bed rest. Bed rest will be verified by a profile from medical personnel.</p> <p>f. SNP/SND <u>IS</u> authorized to speak to occupants of other cells in a low conversational tone.</p> <p>g. SNP/SND <u>IS NOT</u> authorized to keep any gear inside his cell with the exception of, one rules and regulations, one book (religious or non-religious), one mattress, one set PT gear (sweat pants and top are authorized), one pair shower shoes and one POI blanket. SNP/SND will receive one underwear and one additional POI blanket during hours of taps (SEE ADDITIONAL INSTRUCTIONS BELOW). SNP/SND will receive toilet paper upon request only.</p> <p>h. SNP/SND <u>WILL</u> remain in cell during fire drills unless otherwise directed by the Commanding Officer, Brig Supervisor, Operations Chief, or the DBS.</p> <p>i. SNP/SND <u>WILL</u> come to the position of attention in front of hatch upon entry of any commissioned officer and <u>WILL</u> remain at attention until told to carry on. SNP/SND <u>WILL</u> address all duty personnel (enlisted) by their rank at parade rest. SNP/SND <u>WILL</u> be required to stand at the position of attention for count until carry on is sounded.</p> <p>j. SNP/SND <u>WILL</u> eat in cell with a metal spoon only.</p> <p>k. SNP/SND <u>WILL</u> have sick call, medication call, and chaplain visits conducted at cell hatch. Command and legal visits will be conducted in a non-contact booth.</p>			
9. ADDITIONAL INSTRUCTIONS			
<p>a. SNP/SND <u>WILL</u> receive correspondence material from 1920-2120 to include mail, legal papers, envelopes, DD510 forms, and one pencil or pen.</p> <p>b. SNP/SND <u>WILL</u> receive hygiene items in accordance with POD only.</p> <p>c. SNP/SND <u>WILL</u> receive a 1 HOUR recreation call in the special quarters recreation yard or inside recreation area in case of inclement weather. SND's restraints will be removed during recreation call.</p> <p>d. All gear will be removed from cell after Taps with the exception of one mattress, one underwear and two POI blankets.</p> <p>e. SNP/SND will wear a SECOND CHANCE VEST AND KEVLAR WHEN LEAVING THE FACILITY ON TEMPORARY ABSENCE AT ALL TIMES.</p>			
10. STATEMENT OF UNDERSTANDING			
<p>Person certify that I have been briefed regarding the above instructions and understand them and my responsibilities.</p>			
11. INMATE			
a. NAME (LAST, FIRST MI) MANNING, BRADLEY E.		b. SIGNATURE [Signature]	c. DATE (YYYYMMDD) 20110120
12. DUTY BRIG SUPERVISOR			
a. NAME (LAST, FIRST MI) Garrett S.A.		b. SIGNATURE [Signature]	c. DATE (YYYYMMDD) 20110120
13. COMMANDING OFFICER REVIEW			
a. NAME, GRADE, TITLE AVERHART JR., J. T. / CWO4 / COMMANDING OFFICER		b. SIGNATURE [Signature]	c. DATE (YYYYMMDD) 20110120

SPECIAL HANDLING INSTRUCTIONS			REPORT DATE (YYYYMMDD) 20110128
1. INMATE NAME (LAST, FIRST MI.) MANNING, BRADLEY E.		2. SSN [REDACTED]	3. RCN [REDACTED]
4. CUSTODY LEVEL MAX	5. STATUS DET	6. SPECIAL DETAIL PREVENTION OF INJURY	7. QUARTERS / ROW / CELL # SQ-1 / A / 192
8. SPECIAL INSTRUCTIONS			
<p>a. SNP/SND <u>WILL</u> wear restraints and be escorted according to custody classification when leaving cell. The Duty Brig Supervisor will be notified prior to SNP/SND moving outside any area outside Special Quarters. Control Center Supervisor will commence facility lockdown.</p> <p>b. SNP/SND <u>IS</u> authorized recreation call; <u>IS</u> authorized television call; <u>IS</u> authorized library call; <u>IS NOT</u> authorized to conduct calisthenics in cell. (SEE ADDITIONAL INSTRUCTIONS BELOW)</p> <p>c. SNP/SND <u>IS</u> authorized to make/receive phone calls.</p> <p>d. SNP/SND <u>IS</u> authorized Weekend/Holiday visitation in a non-contact booth.</p> <p>e. SNP/SND <u>IS NOT</u> authorized to lie on rack between reveille and taps unless on medical bed rest. Bed rest will be verified by a profile from medical personnel.</p> <p>f. SNP/SND <u>IS</u> authorized to speak to occupants of other cells in a low conversational tone.</p> <p>g. SNP/SND <u>IS NOT</u> authorized to keep any gear inside his cell with the exception of; one rules and regulations, one book (religious or non-religious), one mattress, one set PT gear (<u>sweat pants and top are authorized</u>), one pair shower shoes and one POI blanket. SNP/SND will receive one underwear and one additional POI blanket during hours of taps. (SEE ADDITIONAL INSTRUCTIONS BELOW). SNP/SND will receive toilet paper upon request only.</p> <p>h. SNP/SND <u>WILL</u> remain in cell during fire drills unless otherwise directed by the Commanding Officer, Brig Supervisor, Operations Chief, or the DBS.</p> <p>i. SNP/SND <u>WILL</u> come to the position of attention in front of hatch upon entry of any commissioned officer and <u>WILL</u> remain at attention until told to carry on. SNP/SND <u>WILL</u> address all duty personnel (enlisted) by their rank at parade rest. SNP/SND <u>WILL</u> be required to stand at the position of attention for count until carry on is sounded.</p> <p>j. SNP/SND <u>WILL</u> eat in cell with a metal spoon only.</p> <p>k. SNP/SND <u>WILL</u> have sick call, medication call, and chaplain visits conducted at cell hatch. Command and legal visits will be conducted in a non-contact booth.</p>			
9. ADDITIONAL INSTRUCTIONS			
<p>a. SNP/SND <u>WILL</u> receive correspondence material from 1920-2120 to include mail, legal papers, envelopes, DD510 forms, and one pencil or pen.</p> <p>b. SNP/SND <u>WILL</u> receive hygiene items in accordance with POD only.</p> <p>c. SNP/SND <u>WILL</u> receive a 1 HOUR recreation call in the special quarters recreation yard or inside recreation area in case of inclement weather. SND's restraints will be removed during recreation call.</p> <p>d. All gear will be removed from cell after Taps with the exception of one mattress, one underwear and two POI blankets.</p> <p>e. SNP/SND will wear a SECOND CHANCE VEST AND KEVLAR WHEN LEAVING THE FACILITY ON TEMPORARY ABSENCE AT ALL TIMES.</p>			
10. STATEMENT OF UNDERSTANDING			
<p>____ I certify that I have been briefed regarding the above instructions and understand them and my responsibilities.</p>			
11. INMATE			
a. NAME (LAST, FIRST MI.) MANNING, BRADLEY E.		b. SIGNATURE 	c. DATE (YYYYMMDD) 20110128
12. DUTY BRIG SUPERVISOR			
a. NAME (LAST, FIRST MI.) SANCHEZ, F. / SGT / DBS		b. SIGNATURE 	c. DATE (YYYYMMDD) 20110128
13. COMMANDING OFFICER REVIEW			
a. NAME, GRADE, TITLE BARNES, D. V. / CWO2 / COMMANDING OFFICER		b. SIGNATURE 	c. DATE (YYYYMMDD) 20110128

SPECIAL HANDLING INSTRUCTIONS			REPORT DATE (YYYYMMDD) 20110211
1. INMATE NAME (LAST, FIRST MI.) MANNING, BRADLEY E.		2. SSN [REDACTED]	3. RCN [REDACTED]
4. CUSTODY LEVEL MAX	5. STATUS DET	6. SPECIAL DETAIL PREVENTION OF INJURY	7. QUARTERS / ROW / CELL # SQ-1 / A / 192
8. SPECIAL INSTRUCTIONS			
<p>a. SNP/SND <u>WILL</u> wear restraints and be escorted according to custody classification when leaving cell. The Duty Brig Supervisor will be notified prior to SNP/SND moving outside any area outside Special Quarters. Control Center Supervisor will commence facility lockdown</p> <p>b. SNP/SND <u>IS</u> authorized recreation call; <u>IS</u> authorized television call; <u>IS</u> authorized library call; <u>IS NOT</u> authorized to conduct calisthenics in cell. (SEE ADDITIONAL INSTRUCTIONS BELOW)</p> <p>c. SNP/SND <u>IS</u> authorized to make/receive phone calls.</p> <p>d. SNP/SND <u>IS</u> authorized Weekend/Holiday visitation in a non-contact booth</p> <p>e. SNP/SND <u>IS NOT</u> authorized to lie on rack between reveille and taps unless on medical bed rest. Bed rest will be verified by a profile from medical personnel.</p> <p>f. SNP/SND <u>IS</u> authorized to speak to occupants of other cells in a low conversational tone.</p> <p>g. SNP/SND <u>IS NOT</u> authorized to keep any gear inside his cell with the exception of, one rules and regulations, one book (religious or non-religious), one mattress, one set PT gear (sweat pants and top are authorized), one pair shower shoes and one POI blanket. SNP/SND will receive one underwear and one additional POI blanket during hours of taps. (SEE ADDITIONAL INSTRUCTIONS BELOW). SNP/SND will receive toilet paper upon request only.</p> <p>h. SNP/SND <u>WILL</u> remain in cell during fire drills unless otherwise directed by the Commanding Officer, Brig Supervisor, Operations Chief, or the DBS.</p> <p>i. SNP/SND <u>WILL</u> come to the position of attention in front of hatch upon entry of any commissioned officer and <u>WILL</u> remain at attention until told to carry on. SNP/SND <u>WILL</u> address all duty personnel (enlisted) by their rank at parade rest. SNP/SND <u>WILL</u> be required to stand at the position of attention for count until carry on is sounded.</p> <p>j. SNP/SND <u>WILL</u> eat in cell with a metal spoon only.</p> <p>k. SNP/SND <u>WILL</u> have sick call, medication call, and chaplain visits conducted at cell hatch. Command and legal visits will be conducted in a non-contact booth.</p>			
9. ADDITIONAL INSTRUCTIONS			
<p>a. SNP/SND <u>WILL</u> receive correspondence material from 1920-2120 to include mail, legal papers, envelopes, DD510 forms, and one pencil or pen.</p> <p>b. SNP/SND <u>WILL</u> receive hygiene items in accordance with POD only.</p> <p>c. SNP/SND <u>WILL</u> receive a 1 HOUR recreation call in the special quarters recreation yard or inside recreation area in case of inclement weather. SND's restraints will be removed during recreation call.</p> <p>d. All gear will be removed from cell after Taps with the exception of one mattress, one underwear and two POI blankets.</p> <p>e. SNP/SND will wear a SECOND CHANCE VEST AND KEVLAR WHEN LEAVING THE FACILITY ON TEMPORARY ABSENCE AT ALL TIMES.</p>			
10. STATEMENT OF UNDERSTANDING			
<p>SNP/SND certify that I have been briefed regarding the above instructions and understand them and my responsibilities</p>			
11. INMATE			
a. NAME (LAST, FIRST MI.) MANNING, BRADLEY E.		b. SIGNATURE [Signature]	c. DATE (YYYYMMDD) 20110211
12. DUTY BRIG SUPERVISOR			
a. NAME (LAST, FIRST MI.) BOAFO, M / SSGT / DBS		b. SIGNATURE [Signature]	c. DATE (YYYYMMDD) 20110211
13. COMMANDING OFFICER REVIEW			
a. NAME, GRADE, TITLE BARNES, D. V / CWO2 / COMMANDING OFFICER		b. SIGNATURE [Signature]	c. DATE (YYYYMMDD) 20110211

BRIG FORM 4205, AUG 2009

SPECIAL HANDLING INSTRUCTIONS

REPORT DATE (YYYYMMDD)
20110302

1. INMATE NAME (LAST, FIRST MI.) MANNING, BRADLEY E.		2. SSN [REDACTED]	3. RCN [REDACTED]
4. CUSTODY LEVEL MAX	5. STATUS DET	6. SPECIAL DETAIL PREVENTION OF INJURY	7. QUARTERS / ROW / CELL # SQ-1 / A / 192

8. SPECIAL INSTRUCTIONS

- a. SNP/SND WILL wear restraints and be escorted according to custody classification when leaving cell. The Duty Brig Supervisor will be notified prior to SNP/SND moving outside any area outside Special Quarters. Control Center Supervisor will commence facility lockdown.
- b. SNP/SND IS authorized recreation call; IS authorized television call; IS authorized library call; IS NOT authorized to conduct calisthenics in cell. (SEE ADDITIONAL INSTRUCTIONS BELOW)
- c. SNP/SND IS authorized to make/receive phone calls.
- d. SNP/SND IS authorized Weekend/Holiday visitation in a non-contact booth.
- e. SNP/SND IS NOT authorized to lie on rack between revolve and taps unless on medical bed rest. Bed rest will be verified by a profile from medical personnel.
- f. SNP/SND IS authorized to speak to occupants of other cells in a low conversational tone.
- g. SNP/SND IS NOT authorized to keep any gear inside his cell with the exception of; one rules and regulations, one book (religious or non-religious), one mattress, one detainee uniform, one pair shower shoes and one POI blanket. SNP/SND will receive one additional POI blanket during hours of taps. (SEE ADDITIONAL INSTRUCTIONS BELOW). SNP/SND will receive toilet paper upon request only.
- h. SNP/SND WILL remain in cell during fire drills unless otherwise directed by the Commanding Officer, Brig Supervisor, Operations Chief, or the DBS.
- i. SNP/SND WILL come to the position of attention in front of hatch upon entry of any commissioned officer and WILL remain at attention until told to carry on. SNP/SND WILL address all duty personnel (enlisted) by their rank at parade rest. SNP/SND WILL be required to stand at the position of attention for count until carry on is sounded.
- j. SNP/SND WILL eat in cell with a metal spoon only.
- k. SNP/SND WILL have sick call, medication call, and chaplain visits conducted at cell hatch. Command and legal visits will be conducted in a non-contact booth.

9. ADDITIONAL INSTRUCTIONS


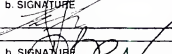
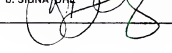
- a. SNP/SND WILL receive correspondence material from 1920-2120 to include mail, legal papers, envelopes, DD510 forms, and one pencil or pen.
- b. SNP/SND WILL receive hygiene items in accordance with FUD only.
- c. SNP/SND WILL receive a 1 HOUR recreation call in the special quarters recreation yard or inside recreation area in case of inclement weather. SND's restraints will be removed during recreation call.
- d. All gear will be removed from cell after Taps with the exception of one mattress, and two POI blankets.
- e. SNP/SND will wear a SECOND CHANCE VEST AND KEVLAR WHEN LEAVING THE FACILITY ON TEMPORARY ABSENCE AT ALL TIMES.

10. STATEMENT OF UNDERSTANDING

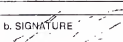


☒ I certify that I have been briefed regarding the above instructions and understand them and my responsibilities.

11. INMATE		
a. NAME (LAST, FIRST MI.) MANNING, BRADLEY E.	b. SIGNATURE 	c. DATE (YYYYMMDD) 20110302
12. DUTY BRIG SUPERVISOR	b. SIGNATURE 	c. DATE (YYYYMMDD) 20110302
13. COMMANDING OFFICER REVIEW		
a. NAME, GRADE, TITLE JAMES D. V / CWO2 / COMMANDING OFFICER	b. SIGNATURE 	c. DATE (YYYYMMDD) 20110302

*G FORM 4205, AUG 2009

SPECIAL HANDLING INSTRUCTIONS			REPORT DATE (YYYYMMDD) 20110408
1. INMATE NAME (LAST, FIRST MI) MANNING, BRADLEY E.		2. SSN [REDACTED]	3. RCN [REDACTED]
4. CUSTODY LEVEL MAX	5. STATUS DET	6. SPECIAL DETAIL ADMINISTRATIVE SEGREGATION PREVENTION OF INJURY	
8. SPECIAL INSTRUCTIONS		7. QUARTERS / ROW / CELL # SQ-1 / A / 191	
<p>a. SNP/SND <u>WILL</u> wear restraints and be escorted according to custody classification when leaving cell. The Duty Brig Supervisor will be notified prior to SNP/SND moving outside any area outside Special Quarters. Control Center Supervisor will commence facility lockdown.</p> <p>b. SNP/SND <u>IS</u> authorized recreation call; <u>IS</u> authorized television call; <u>IS</u> authorized library call; <u>IS NOT</u> authorized to conduct calisthenics in cell. (SEE ADDITIONAL INSTRUCTIONS BELOW)</p> <p>c. SNP/SND <u>IS</u> authorized to make/receive phone calls</p> <p>d. SNP/SND <u>IS</u> authorized Weekend/Holiday visitation in a non contact booth.</p> <p>e. SNP/SND <u>IS NOT</u> authorized to lie on rack between rowfile and taps unless on medical bed rest. Bed rest will be verified by a profile from medical personnel.</p> <p>f. SNP/SND <u>IS</u> authorized to speak to occupants of other cells in a low conversational tone.</p> <p>g. SNP/SND <u>IS NOT</u> authorized to keep any gear inside his cell with the exception of; one rules and regulations, one book (religious or non-religious), one mattress, one detainee uniform, one pair shower shoes and one POI blanket. SNP/SND will receive one additional POI blanket during hours of taps. (SEE ADDITIONAL INSTRUCTIONS BELOW). SNP/SND will receive toilet paper upon request only.</p> <p>h. SNP/SND <u>WILL</u> remain in cell during fire drills unless otherwise directed by the Commanding Officer, Brig Supervisor, Operations Chief, or the DBS.</p> <p>i. SNP/SND <u>WILL</u> come to the position of attention in front of hatch upon entry of any commissioned officer and <u>WILL</u> remain at attention until told to carry on. SNP/SND <u>WILL</u> address all duty personnel (enlisted) by their rank at parade rest. SNP/SND <u>WILL</u> be required to stand at the position of attention for count until carry on is sounded.</p> <p>j. SNP/SND <u>WILL</u> eat in cell with a metal spoon only.</p> <p>k. SNP/SND <u>WILL</u> have sick call, medication call, and chaplain visits conducted at cell hatch. Command and legal visits will be conducted in a non-contact booth.</p>			
9. ADDITIONAL INSTRUCTIONS			
<p>a. SNP/SND WILL receive correspondence material from 1920-2120 to include mail, legal papers, envelopes, DD510 forms, and one pencil or pen.</p> <p>b. SNP/SND WILL receive hygiene items in accordance with POD only.</p> <p>c. SNP/SND WILL receive a 1 HOUR recreation call in the special quarters recreation yard or inside recreation area in case of inclement weather. SND's restraints will be removed during recreation call.</p> <p>d. All gear will be removed from cell after Taps with the exception of one mattress, and two POI blankets.</p> <p>e. SNP/SND will wear a SECOND CHANCE VEST AND KEVLAR WHEN LEAVING THE FACILITY ON TEMPORARY ABSENCE AT ALL TIMES.</p>			
10. STATEMENT OF UNDERSTANDING			
I/We <u>SNP</u> certify that I have been briefed regarding the above instructions and understand them and my responsibilities			
11. INMATE			
a. NAME (LAST, FIRST MI) MANNING, BRADLEY E.		b. SIGNATURE 	c. DATE (YYYYMMDD) 20110408
12. DUTY BRIG SUPERVISOR			
a. NAME (LAST, FIRST MI) WEBB, T. / GM2 / DBS		b. SIGNATURE 	c. DATE (YYYYMMDD) 20110408
13. COMMANDING OFFICER REVIEW			
a. NAME, GRADE, TITLE BARNES, D. V. / CWO2 / COMMANDING OFFICER		b. SIGNATURE 	c. DATE (YYYYMMDD) 20110408

BRIG FORM 4205, AUG 2009

SPECIAL HANDLING INSTRUCTIONS			REPORT DATE (YYYYMMDD) 20110411
1. INMATE NAME (LAST, FIRST MI.) MANNING, BRADLEY E.		2. SSN [REDACTED]	3. RCN [REDACTED]
4. CUSTODY LEVEL MAX	5. STATUS DET	6. SPECIAL DETAIL ADMINISTRATIVE SEGREGATION PREVENTION OF INJURY	
7. QUARTERS / ROW / CELL # SQ-1 / A / 191			
8. SPECIAL INSTRUCTIONS			
<p>a. SNP/SND <u>WILL</u> wear restraints and be escorted according to custody classification when leaving cell. The Duty Brig Supervisor will be notified prior to SNP/SND moving outside any area outside Special Quarters. Control Center Supervisor will commence facility lockdown.</p> <p>b. SNP/SND <u>IS</u> authorized recreation call. <u>IS</u> authorized television call. <u>IS</u> authorized library call. <u>IS NOT</u> authorized to conduct calisthenics in cell. (SEE ADDITIONAL INSTRUCTIONS BELOW)</p> <p>c. SNP/SND <u>IS</u> authorized to make/receive phone calls.</p> <p>d. SNP/SND <u>IS</u> authorized Weekend/Holiday visitation in a non-contact booth.</p> <p>e. SNP/SND <u>IS NOT</u> authorized to lie on rack between revellie and taps unless on medical bed rest. Bed rest will be vented by a profile from medical personnel.</p> <p>f. SNP/SND <u>IS</u> authorized to speak to occupants of other cells in a low conversational tone.</p> <p>g. SNP/SND <u>IS NOT</u> authorized to keep any gear inside his cell with the exception of: one rules and regulations, one book (religious or non-religious), one mattress, one detainee uniform, one pair shower shoes and one POI blanket. SNP/SND will receive one additional POI blanket during hours of taps. (SEE ADDITIONAL INSTRUCTIONS BELOW). SNP/SND will receive toilet paper upon request only.</p> <p>h. SNP/SND <u>WILL</u> remain in cell during fire drills unless otherwise directed by the Commanding Officer, Brig Supervisor, Operations Chief, or the DBS.</p> <p>i. SNP/SND <u>WILL</u> come to the position of attention in front of hatch upon entry of any commissioned officer and <u>WILL</u> remain at attention until told to carry on. SNP/SND <u>WILL</u> address all duty personnel (enlisted) by their rank at parade rest. SNP/SND <u>WILL</u> be required to stand at the position of attention for count until carry on is sounded.</p> <p>j. SNP/SND <u>WILL</u> eat in cell with a metal spoon only.</p> <p>k. SNP/SND <u>WILL</u> have sick call, medication call, and chaplain visits conducted at cell hatch. Command and legal visits will be conducted in a non-contact booth.</p>			
9. ADDITIONAL INSTRUCTIONS			
<p>a. SNP/SND WILL receive correspondence material from 1920-2120 to include mail, legal papers, envelopes, DD510 forms, and one pencil or pen.</p> <p>b. SNP/SND will be allowed to have (1) pen or pencil, (1) highlighter and (5) sheets of note paper while reading during the day. SNP/SND will return these items along with the book/magazine to his personal effects when not in use.</p> <p>c. SNP/SND WILL receive hygiene items in accordance with POD only.</p> <p>d. SNP/SND WILL receive a 1 HOUR recreation call in the special quarters recreation yard or inside recreation area in case of inclement weather. SND's restraints will be removed during recreation call.</p> <p>e. All gear will be removed from cell after Taps with the exception of one mattress, and two POI blankets.</p> <p>f. SNP/SND will wear a SECOND CHANCE VEST AND KEVLAR WHEN LEAVING THE FACILITY ON TEMPORARY ABSENCE AT ALL TIMES.</p>			
10. STATEMENT OF UNDERSTANDING			
I, <u>SNP/SND</u> certify that I have been briefed regarding the above instructions and understand them and my responsibilities.			
11. INMATE			
a. NAME (LAST, FIRST MI.) MANNING, BRADLEY E.		b. SIGNATURE 	c. DATE (YYYYMMDD) 20110411
12. DUTY BRIG SUPERVISOR			
a. NAME (LAST, FIRST MI.) TERRY, M / SSGT / DBS		b. SIGNATURE 	c. DATE (YYYYMMDD) 20110411
13. COMMANDING OFFICER REVIEW			
a. NAME, GRADE, TITLE BARNES, D V / CW02 / COMMANDING OFFICER		b. SIGNATURE 	c. DATE (YYYYMMDD) 20110411

BRIG FORM 4205, AUG 2009

ATTACHMENT 5

Program Plan - Part 3

Date: 2011-05-02

Init Cnf Dt: 2010-05-31

Resident # [REDACTED]

Locl Cnf Dt: 2010-07-29

UIC: 30527

Area	Goals	Target/Action Date	Status	Saved Date	Description
PPIII - Perf, Smry	Board Review & Results	2011-04-15	Satisfactory or Above	2011-04-15	<p>2011-04-18 Modified REVIEWED AND CONCUR - GYSGT BLENIS</p> <p>2011-04-15 Initial minutes SND was notified that his custody and status would be reviewed by the Classification and Assignment Board today for a 7 day review. SND did not have any questions and did not request to appear before the board. SND was evaluated by the Brig Psychiatrist on 15 April 2011. SND has not presented any problems since his last review and has been an overall average detainee. It is recommended that SND be remain MAX custody, remain FOI, and remain in SQ-1. -- SSG Jordan</p>
PPIII - Perf, Smry	Counsel Notes	2011-04-11	Active	2011-04-14	<p>2011-04-14 Individual 20 minutes</p> <p>(1) SND received his weekly interview on 11 April 2011 and had no issues that needed immediate attention. SND stated that he did receive a command visit last week and was visited by his Aunt and a friend over the weekend. SND received a legal visit from his military defense counsel, Maj Kemkes, on 7 April 2011 and also spoke with his civilian attorney over the phone on 8 April 2011. SND met with his defense team while on T/A on 9 April 2011. SND did not receive any disciplinary reports or adverse spot evaluations, and received an average work and training report.</p> <p>(2) During the interview SND more talkative than he has been over the last several weeks. SND was much more open to conversation and seemed very comfortable during the discussion. Overall SND appeared to be doing well and he stated that everything was fine. SND stated that everything went well while he was on temporary absence over the weekend and he stated that the</p>

					<p>escorts were professional. During the interview, SND was respectful and courteous and appeared to be in a good mood. SND maintained eye contact for the duration of the conversation and his demeanor was back to where it was in late January through early March when he was much more open to discussion. – Gysgt Blenis</p> <p>(3) There were no reported incidents of unusual behavior demonstrated by Det Manning.</p> <p>(4) On 11 April 2011, the Brig OIC adjusted SND's handling letter to allow him to have note taking gear while reading throughout the day.</p> <p>(5) SND was evaluated by Col Malone on 8 April 2011. Col Malone noted that SND is stable and in remission. SND was reviewed by the Classification and Assignment Board on 8 April 2011 and was recommended to remain in POI status. SND was afforded to appear before the members of the board but declined. The Brig Officer concurred with the Classification and Assignment board's recommendation and approved SND to remain classified as a maximum custody detainee on POI. SND will be reviewed by the Classification and Assignment Board next on 15 April 2011.</p>
PPHII - Perf.	Board Review &	2011-04-08	Satisfactory or Above	2011-04-11	2011-04-14 Modified REVIEWED AND CONCUR - GYSGT BLENIS

Smry	Results				2011-04-11 Initial minutes SND was notified that his custody and status would be reviewed by the Classification and Assignment Board today for a 7 day review. SND did not have any questions and did not request to appear before the board. SND was evaluated by the Brig Psychiatrist on 8 APRIL 2011. SND has not presented any problems since his last review and has been an overall average detainee. It is recommended that SND be remain MAX custody, remain POI, and remain in SQ-1. - SSG Jordan
PPIII - Perf, Smry	Counsel Notes	2011-04-05	Active	2011-04-07	2011-04-07 Individual 20 minutes weekly counseling session conducted this day: SND had no issues or concerns that needed immediate attention. SND stated that he did receive a command visit last week and received no personal visits over the weekend. SND received 2 pieces of mail from his attorney David Coombs since his last interview. SND did speak with his attorney David Coombs on 30 March, and 4 April 2011 over the phone. SND did not receive any disciplinary reports or adverse spot evaluations, and received an average work and training report. During the interview SND still would not engage in any sort of lengthy conversation, and just gives short responses followed by the appropriate customs and courtesy. SND maintained poor eye contact for the duration of the interview. SND's eyes and head were straight and forward while responding to all questions as if he was sitting at the position of attention. ---SSG Jordan
PPIII - Perf, Smry	Board Review & Results	2011-04-01	Satisfactory or Above	2011-04-05	2011-04-05 Modified REVIEWED AND CONCUR - GYSGT BLENIS 2011-04-05 Initial minutes SND was notified that his custody and status would be reviewed by the Classification and Assignment Board today for a 7 day review. SND did not have any questions and did not request to appear before the board. SND was evaluated by the Brig Psychiatrist on 1 APRIL 2011. SND has not presented any problems since his last review and has been an overall average detainee. It is recommended that SND be remain MAX custody, remain POI, and remain in SQ-1. - SSG Jordan
PPIII - Perf, Smry	Counsel Notes	2011-03-28	Active	2011-03-30	2011-03-30 Individual minutes (1) SND received his weekly interview on 28 March 2011 and had no issues

				<p>that needed immediate attention. SND stated that he did receive a command visit last week and received no personal visits over the weekend. SND did not speak with his attorney over the phone but did meet with his defense team while on T/A to Fort Meyer. SND did not receive any disciplinary reports or adverse spot evaluations, and received an average work and training report. SND was counseled by staff on 28 March 2011 for covering himself completely after taps.</p> <p>(2) During the interview SND was upset due to being corrected while being escorted to my office. SND was also upset about being questioned as to why he did not eat his entire noon meal. SND was told not to take these personally and that the staff is going to make corrections when necessary or ask questions if they see something out of the ordinary. SND stated that he did not understand why these things are an issue and appeared irritated that the staff even addressed them. SND stated that he was not on a hunger strike. During the interview SND stated that everything went well during his T/A's last week and that the escorts were professional. SND spoke minimally again this week and still appears withdrawn and guarded in any staff interaction. I asked SND if he has started reading anything new to which he replied he has not. SND stated that he has no interest in leisurely reading and that he prefers to study what he reads. He did express desire to have note taking material while he does read. I asked SND if he had any interest in "brain teaser" type puzzles, e.g. crosswords or Sudoku, to which he replied no. SND appeared extremely arrogant when asked about these and stated that those type puzzles are "below my level". Overall SND was again reluctant to get into a conversation, which has been normal over recent weeks. SND does show signs that he would like more interaction with people, but at the same time appears to purposely remain guarded from interaction. During the interview, SND remained respectful and courteous and appeared very tired. SND maintained eye contact more than he did the last time we spoke, but still not to the extent of his normal character. - GySgt Blenis</p>
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					<p>(3) There was one behavioral observation report submitted on 28 March 2011, annotating SND's lack of desire to eat his full noon meal.</p> <p>(4) SND was not evaluated by Col Malone on 25 March 2011 due to SND's temporary absence. GySgt Blenis did speak with Col Malone regarding SND's unusual demeanor on 24 March 2011 and SND's change in attitude since early March 2011. SND was reviewed by the Classification and Assignment Board on 25 March 2011 and was recommended to remain in POI status. The Brig Officer concurred with the Classification and Assignment board's recommendation and approved SND to remain classified as a maximum custody detainee on POI. SND will be reviewed by the Classification and Assignment Board next on 1 April 2011.</p>
PPHII - Perf, Smry	Board Review & Results	2011-03-25	Satisfactory or Above	2011-03-25	<p>2011-03-25 Initial minutes</p> <p>SND's custody and status was reviewed by the Classification and Assignment Board today for a 7 day review. SND was unable to be evaluated by the Brig Psychiatrist or request to appear before the board due to temporary absence. SND has not presented any problems since his last review and has been an overall average detainee. It is recommended that SND be remain MAX custody, remain POI, and remain in SQ-1. - GySgt Blenis</p>
PPHII - Perf, Smry	Counsel Notes	2011-03-25	Active	2011-03-25	<p>2011-03-25 minutes</p> <p>On 24 March 2011, I briefly spoke with SND at his cell asking him how he was doing and if everything went well while he was on temporary absence to WRAMC. SND stated that he was doing fine but his demeanor was visibly different than what is normal. SND always stands up to greet staff quickly but this time he was unusually slow. He always maintains eye contact when speaking or being spoken to but this time there was no eye contact at all. Ifis</p>

					<p>voice is normally cheerful but this time it was lower than usual as if he was sad.</p> <p>SND does have two scheduled T/A's (25 and 26 March 2011) for a 706 board hearing which may be a contributing factor. March 1st was the last time that SND has spoke with me at length which, at the time, was becoming routine. Since that date, SND has been guarded from getting into any real discussion and his demeanor has been more somber. I believe that the main contributing factors are receiving his new charge sheet and the Article 138 response on 2 March 2011. SND has not spoken with me at length since receiving these documents except for one instance (15 March 2011) but that time was fairly brief as well. I do feel that it is worth mentioning that SND was removed from all medications on 4 March 2011 and his demeanor is becoming comparable to what was documented during his confinement in Kuwait.</p> <p>This entry is being made on 25 March 2011 because after thinking about it more at home last night and en route to work this morning, I feel that his demeanor was so out of ordinary for him that it needs to be documented outside of a weekly interview note, especially considering that he removed 18 names from his mail and visitation list, notably his father, David House and Trevor Fitzgibbon - GySgt Blenis</p>
PPIII - Perf. Smry	Counsel Notes	2011-03-22	Active	2011-03-25	<p>2011-03-25 Individual minutes</p> <p>(1) SND received his weekly interview on 22 March 2011 and had no issues that needed immediate attention. SND stated that he did receive a command visit last week and received no personal visits over the weekend. SND also spoke with his attorney, David Coombs, over the phone on 16 and 22 March 2011. SND did not receive any disciplinary reports but did receive one</p>

				<p>adverse spot evaluation on 16 March 2011 for interfering with the application of hand restraints and the restraint belt. SND received an average work and training report.</p> <p>(2) During the interview SND was quiet and showed no interest in engaging in conversation. I counseled SND on what is expected of him as a detainee and that, although he is used to the routine of restraints being applied, he is to follow the direction of the staff member and not move forward in the process until given instructions. During the interview I asked SND if everything was going well with friends and family since he had several people removed from his mail and visitation list. SND stated that the majority of the individuals have not written letters or visited so he removed them. He also stated that things were not well with a couple individuals so he had them removed. During the interview, SND remained guarded from getting into a lengthy discussion and was very short with responses. He was respectful and courteous and his demeanor was consistent with his normal character. - GySgt Blenis</p> <p>(3) There were no reported incidents of unusual behavior demonstrated by Det Manning.</p> <p>(4) SND was evaluated by Col Malone on 18 March 2011. Col Malone annotated that SND's anxiety disorder remains in remission and that SND is a low risk of self harm. SND was reviewed by the Classification and Assignment Board on 18 March 2011 and was recommended to remain in POI status. The Brig Officer concurred with the Classification and Assignment board's recommendation and approved SND to remain classified as a maximum custody detainee on POI.</p>
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					SND will be reviewed by the Classification and Assignment Board next on 25 March 2011.
PPHII - Perf, Smry	Board Review & Results	2011-03-18	Satisfactory or Above	2011-03-18	<p>2011-03-18 Initial minutes</p> <p>SND was notified that his custody and status would be reviewed by the Classification and Assignment Board today for a 7 day review. SND did not have any questions and did not request to appear before the board. SND was evaluated by the Brig Psychiatrist on 18 MARCH 2011. SND has not presented any problems since his last review and has been an overall average detainee. It is recommended that SND be remain MAX custody, remain POI, and remain in SQ-1. -- GySgt Blenis</p>
PPHII - Perf, Smry	Counsel Notes	2011-03-15	Active	2011-03-18	<p>2011-03-18 Individual minutes</p> <p>SND received his weekly interview on 15 March 2011 and had no issues that needed immediate attention. SND stated that he did receive a command visit last week and received two personal visits over the weekend. SND's visitors provided him (through Brig staff) with \$65.00 to be placed into his Brig valuables account. SND signed a DD form 2674 receipt acknowledging that the funds were received in to his account. SND also spoke with his attorney, David Coombs, over the phone on 14 March 2011. SND did not receive any disciplinary reports or adverse spot evaluations and received an average work and training report.</p> <p>(2) During the interview SND was a little more talkative than last week, mostly about the NCAA tournament selections. Aside from college</p>

				<p>basketball, SND was quiet and stated that he had no issues that needed my attention.</p> <p>During the interview, SND was respectful and maintained eye contact, but he still appeared guarded from getting into a lengthy discussion. Although he seemed to be in a somber mood, his temperament was consistent with his normal character. – GySgt Blenis</p> <p>(3) There were no reported incidents of unusual behavior demonstrated by Det Manning.</p> <p>(4) SND was evaluated by Col Malone on 11 March 2011. Col Malone annotated that SND's anxiety disorder remains in remission and that SND remains removed from medication. Col Malone noted that SND could benefit from intellectual stimulation, e.g. games, books and magazines.</p> <p>(a) SND does have approximately 10-12 personal books and receives a Scientific American magazine monthly. SND also has access to the Brig Library where he may borrow books from.</p> <p>SND was reviewed by the Classification and Assignment Board on 11 March 2011 and was recommended to remain in POI status. The Brig Officer concurred with the Classification and Assignment board's recommendation and approved SND to remain classified as a maximum custody detainee on POI. SND will be reviewed by the Classification and Assignment Board next on 18 March 2011.</p>
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PPIII - Perf, Smry	Board Review & Results	2011-03-11	Satisfactory or Above	2011-03-11	<p>2011-03-11 Initial minutes</p> <p>SND was notified that his custody and status would be reviewed by the Classification and Assignment Board today for a 7 day review. SND did not have any questions and did not request to appear before the board. SND was evaluated by the Brig Psychiatrist on 11 MARCH 2011. SND has not presented any problems since his last review and has been an overall average detainee. It is recommended that SND be remain MAX custody, remain POI, and remain in SQ-1. – GySgt Blenis</p>
PPIII - Perf, Smry	Counsel Notes	2011-03-08	Active	2011-03-09	<p>2011-03-09 Individual minutes</p> <p>(1) SND received his weekly interview on 8 March 2011 and had no issues that needed immediate attention. SND stated that he did receive a command visit last week and received no personal visits over the weekend. SND also spoke with his attorney, David Coombs, over the phone on 2, 3 and 4 March 2011. SND did not receive any disciplinary reports or adverse spot evaluations and received an average work and training report. SND was counseled on 2 March 2011 by the Brig Supervisor for disobedience. On 3 March 2011, SND was counseled by the Brig OIC for disrespect and adherence to customs and courtesies. On the same date he was counseled by the Special quarters Supervisor for making head calls while a female is present. On 4 March 2011 SND was counseled by the Brig Supervisor for disrespect. All of these entries were recorded on SND's hard card.</p> <p>(2) During the interview SND was extremely quiet and showed no interest in speaking to me. SND stated that he was feeling fine but was very short in</p>

				<p>response and initiated no conversation. I attempted to get him involved in a conversation over this week's selection of teams to be in the NCAA tournament but he said he was not interested this year. Over the past several weeks SND has engaged in longer conversations but this week he seems to have reverted back to how he was during his first several months of confinement in Quantico, remaining very quiet and guarded against getting into conversation. During the interview, SND was respectful and maintained eye contact. Aside from his silence, his demeanor was consistent with his normal character. - GYSgt Blenis</p> <p>(3) There was one reported incident of unusual behavior demonstrated by Det Manning.</p> <p>(a) On 3 March 2011, SND was observed staring at the wall and talking to himself.</p> <p>(4) On 2 March 2011, an envelope addressed to Det Manning was received by the Brig mailroom. The envelope was the size of a standard sized greeting card, pink, decorated with stickers and was addressed in hand writing with General Casey, the U.S. Army Chief of Staff's name as the sender with his the official return address. In the "send to" address block, The Quantico Brig was labeled as "Quantico Solitary Confinement facility". The Brig staff believed the return address to be false and that Gen Casey was not the actual sender due to the post office stamp originating on Rhode Island, the unprofessional appearance of the envelope and the title of the Quantico Brig. U.S. Army Corrections Command and HQMC PSL Corrections branch were contacted and informed of the envelope received. The envelope was treated as all other mail, opened and scanned. The contents were a greeting card signed by a Charles Atlas and stated that another individual had proof that Det Manning is being tortured by the Brig OIC (identified by name) and her</p>
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				<p>staff. Due to the sender's name and address being false, the letter is being destroyed vice returned to the sender, as it would be delivered to General Casey in the Pentagon.</p> <p>(5) On 2 March 2011, the Brig Supervisor spoke with Det Manning concerning his questioning of Brig staff on POI procedures. SND stated that he did not understand his POI status or the procedures. The Brig Supervisor explained to SND his status and also that he is to comply with the orders given to him by all Brig staff. During the course of the conversation, the SND stated that he does not understand why his items are removed from his cell with the exception of his underwear "with the elastic band which is the most dangerous piece". MSgt Papakie informed the Brig OIC of SND's statement about the elastic band in his underwear and the OIC decided to adjust Det Manning's handling letter and have his underwear removed from his cell during hours of taps.</p> <p>(6) On 2 March 2011, SND received another charge sheet containing the following additional alleged charges: violation of article 92 (five specifications), violation of article 104 (one specification) and violation of article 134 (16 specifications).</p> <p>(7) On 4 March 2011, SND was moved from Cell 192 to 191.</p> <p>(8) SND was evaluated by Col Malone on 4 March 2011. Col Malone annotated that SND's anxiety disorder remains in remission and that SND was fully removed from medication. Col Malone noted that SND has a stable, low risk assessment and there have been no significant changes. SND was reviewed by the Classification and Assignment Board on 4 March 2011 and</p>
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					was recommended to remain in POI status. The Brig Officer concurred with the Classification and Assignment board's recommendation and approved SND to remain classified as a maximum custody detainee on POI. SND will be reviewed by the Classification and Assignment Board next on 11 March 2011.
PPIII - Perf, Smry	Board Review & Results	2011-03-04	Satisfactory or Above	2011-03-04	2011-03-09 Modified REVIEWED AND CONCUR - GYSGT BLENIS 2011-03-04 Initial minutes SND was notified that his custody and status would be reviewed by the Classification and Assignment Board today. SND did not have any questions and did not request to appear before the board. It is recommended that SND remain MAX, remain POI, and remain in SQ-1. - SSG Jordan
PPIII - Perf, Smry	Board Review & Results	2011-02-25	Satisfactory or Above	2011-03-03	2011-03-09 Modified REVIEWED AND CONCUR - GYSGT BLENIS 2011-03-03 Initial minutes SND was notified that his custody and status would be reviewed by the Classification and Assignment Board today. SND did not have any questions and did request to appear before the board. During the conduct of the board SND stated that he had no further information to share with the board that he has not already stated in prior boards. It was then explained to SND the purpose of appearing before the board. Is to bring to light some new information in regards to his current Classification and Assignment, or aid in the decision to change SND's current Classification and Assignment. SND stated that the Brig psychologist has taken him off of all his current medication, and that he is sleeping better at night. It is recommended that SND remain MAX, remain on POI, and remain in SQ-1. - SSG Jordan

					<p>Board Members</p> <p>GySgt Fuller</p> <p>SSG Jordan</p> <p>Sgt Garnett</p>
PP111 - Perf, Smry	Counsel Notes	2011-03-01	Active	2011-03-02	<p>2011-03-02 Individual 40 minutes</p> <p>(1) SND received his weekly interview on 28 February 2011 and had no issues that needed immediate attention. SND stated that he did receive a command visit last week and was visited by his father, and friends over the weekend. SND also spoke with his attorney, David Coombs, over the phone on 24 February 2011. SND did not receive any disciplinary reports or adverse spot evaluations and received an above average work and training report.</p> <p>(2) During the interview SND was quiet at first but then interacted in conversation for almost an hour. SND stated that he has been sick the last few days but he was feeling better now. SND spoke about several topics including his potential plans once released from confinement. SND spoke of the challenges he will face once released, but is confident that he will be successful getting employment and being financially stable. Overall SND appeared to be in a good mood and was able to laugh and joke a little. During the interview, SND was well spoken, respectful and maintained eye contact. - GySgt Blenis</p> <p>(3) There were no reported incidents of unusual behavior demonstrated by</p>

				<p>Det Manning.</p> <p>(4) SND was evaluated by Col Malone on 25 February 2011. Col Malone annotated that SND's anxiety disorder remains in early full remission and that SND was tolerating the taper off medication well. Col Malone noted that SND understands the risks and benefits of both treatment and non treatment and that he responds well to intellectual stimulation. SND was reviewed by the Classification and Assignment Board on 25 February 2011 and was recommended to remain in POI status. The Brig Officer concurred with the Classification and Assignment board's recommendation and approved SND to remain classified as a maximum custody detainee on POI. SND will be reviewed by the Classification and Assignment Board next on 4 March 2011.</p> <p>(5) On 28 February 2011, SND was counseled by the Brig Supervisor concerning his altering of the OPNAV 5527/2 voluntary statement. On several occasions, SND chose to either not receive recreation call or have his recreation call secured early. SND was asked to make a written statement documenting his request which SND agreed to do however, SND lined out several areas of the OPNAV form. SND was told by the Brig Supervisor that he does not have to make a written statement at all, but if SND chooses to do so, he is not to alter the document itself. The Brig Supervisor explained to SND that the main purpose of this statement is for the Brig's leadership to know that SND made the choice to not receive recreation call vice the security staff denying SND of this privilege. SND stated that he was instructed by his attorney not to make any statements within the Brig and this is why he lined out certain areas of the OPNAV form. SND stated that he understood that he is not to alter that form or any other official form and also that he understands that is not required to provide any written statement to Brig staff. SND was also counseled by the Brig OIC on the same topic. The Brig OIC also explained to SND that he would not be in violation of any facility rules if he chose not to make a statement and no punitive action would be taken by the Brig. The Brig OIC further explained that if SND did</p>
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					choose to make a statement and continued to alter the document, he would be held accountable for disobedience to orders. SND stated to the Brig OIC that he understood this as well.
PPIII - Perf, Smry	Board Review & Results	2011-02-18	Satisfactory or Above	2011-03-02	2011-03-04 Modified REVIEWED AND CONCUR - GYSGT BLENIS 2011-03-02 Initial minutes SND was notified that his custody and status would be reviewed by the Classification and Assignment Board today. SND did not have any questions and did not request to appear before the board. It is recommended that SND remain MAX, remain POI, and remain in SQ-1. - SSG Jordan
PPIII - Perf, Smry	Counsel Notes	2011-02-22	Active	2011-02-25	2011-02-25 Individual 20 minutes SND received his weekly interview on 22 February 2011 and had no issues that needed immediate attention. SND did not receive any disciplinary reports or adverse spot evaluations and received an average work and training report. During the interview SND was extremely quiet and was not interested in getting into conversation. SND voluntarily secured his TV call on 22 February 2011. SND stated that the initial phase of his 706 board went well, and was a little upset that it was interrupted while he was in the middle of testing by a fire drill. SND was told that the Facility has no control over when those happen, and that the Fire Marshall comes over once a month at random times to run drills for the facility. SND appeared to be confused so I further explained it was for the facility to maintain its proficiency in the event of a fire emergency. SND began to speak a little but never showed interest in becoming engaged in conversation. SND spoke briefly about the University of Syracuse Basketball team. SND appeared to have something on his mind, but when asked he stated that he had no issues or concerns. During the interview SND well spoken and respectful, and maintained good eye contact. -SSG Jordan
PPIII - Perf, Smry	Counsel Notes	2011-02-15	Active	2011-02-17	2011-02-17 Individual 30 minutes

				<p>(1) SND received his weekly interview on 15 February 2011 and had no issues that needed immediate attention. SND stated that he did receive a command visit last week and was visited by his mother, aunt and cousin over the weekend. SND also spoke over the phone with his attorney, David Coombs, on 9 February 2011. SND did not receive any disciplinary reports or adverse spot evaluations and received an above average work and training report.</p> <p>(2) During the interview SND was extremely quiet and was not interested in getting into conversation. After a few minutes, SND began to speak a little but never showed interest in becoming engaged in conversation. SND spoke briefly about his family and stated that he was concerned about his mother's health. Overall SND appeared to be in less than a good mood. SND appeared to be concerned about something that was bothering him, but SND stated that nothing was wrong at this time. During the interview, SND was well spoken and respectful but was less attentive than usual. - GySgt Blenis</p> <p>(3) SND was not evaluated by Col Malone on 11 February 2011 due to SND being on a temporary absence to Fort Meyr legal.</p> <p>SND was reviewed by the Classification and Assignment Board on 11 February 2011 and was recommended to remain in POI status. The Brig Officer concurred with the Classification and Assignment board's recommendation and approved SND to remain classified as a POI detainee. SND will be reviewed by the Classification and Assignment Board next on 18 February 2011.</p> <p>(4) There were no reported incidents of unusual behavior demonstrated by</p>
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					Det Manning.
PPHII - Perf, Smry	Board Review & Results	2011-02-11	Satisfactory or Above	2011-02-17	<p>2011-02-18 Modified SND was unable to choose to or not to appear before the C&A board due to absence on T/A - GySgt Blenis</p> <p>2011-02-17 Initial minutes SND was notified that his custody and status would be reviewed by the Classification and Assignment Board today for a 7 day review. SND did not have any questions and did not request to appear before the board. SND was not evaluated by the Brig Psychiatrist due to SND's temporary absence to a legal appointment. SND has not presented any problems since his last review and has been an overall average detainee. It is recommended that SND be remain MAX custody, remain POI, and remain in SQ-1. - GySgt Blenis</p>
PPHII - Perf, Smry	Counsel Notes	2011-02-07	Active	2011-02-11	<p>2011-02-11 Individual 40 minutes</p> <p>(1) SND received his weekly interview on 7 February 2011 and had no issues that needed immediate attention. SND stated that he did receive a command visit last week and was visited by his friend and attorney over the weekend. SND also spoke over the phone with his attorney, David Coombs, on 2 February 2011. SND did not receive any disciplinary reports or adverse spot evaluations and received an average work and training report. During the interview SND was extremely quiet at first but after a few minutes I was able to get him to loosen up and begin talking about various topics and also laughing a little. SND stated that he was doing well and that he was looking forward to next month's NCAA tournament. Overall SND appeared to be in a good mood and his demeanor was consistent with his normal character. During the interview, SND was well spoken, respectful and maintained eye contact. - GySgt Blenis</p> <p>(2) SND was evaluated by Col Malone on 3 February 2011 and, although further mental evaluation was deemed necessary, the Brig Psychiatrist does</p>

					<p>not believe that SND needs to be segregated from general population from a psychiatric standpoint. Col Malone did annotate that SND was at a low to moderate risk to self harm but still continues to improve. It was further annotated that there are no changes to medications or follow up requirements and SND's stressors include legal uncertainty and the limitations caused by confinement.</p> <p>SND was reviewed by the Classification and Assignment Board on 4 February 2011 and was recommended to remain in POI status. The Brig Officer concurred with the Classification and Assignment board's recommendation and approved SND to remain classified as a POI detainee. SND will be reviewed by the Classification and Assignment Board next on 11 February 2011.</p> <p>(3) There was one reported incident of unusual behavior demonstrated by Det Manning.</p> <p>(a) 4 February 2011: SND was observed standing in the center of his cell and staring into the corner for a prolonged period of time.</p> <p>(4) On 6 February 2011, SND did not want to attend recreation call and chose to watch television instead. SND filled out a voluntary statement documenting this.</p>
PPIII -	Board	2011-02-04	Satisfactory	2011-02-04	2011-02-04 Initial minutes

Perf, Smry	Review & Results		or Above	<p>SND notified that his custody and status would be reviewed by the Classification and Assignment Board today. SND did not have any questions and did request to appear before the board. During the conduct of the board SND asked several questions, and made statements in regards to his custody and classification. SND asked questions in regards to his inmate background summary which he received with other legal documents earlier today. SND reviewed the documentation during the board and as questions arose he asked them. SND asked about some of the answers that were recorded in regards to his suicide risk factors. SND stated that in the section asking if he has ever considered suicide, his answer "always planning never acting" was a false official statement and that he was being sarcastic when he wrote it.</p> <p>SND also asked if he was being treated identically to other inmates, and also asked the members of the board what the average length of time an individual spends on POI status. SND was told that the average is about 3 weeks but it has been seen to be much longer, all depending on the individual and circumstances surrounding that individual. SND was also told by the board members that when he was initially placed on POI status, he was being treated identically to other inmates of the same POI status. He was also told that as time passed, some of the restrictions put in place have been reduced e.g., restraints being removed while conducting indoor recreation call although he is in max custody status. He was told that this is not the normal procedure but his personal conduct led to the reduced restriction and this is not identical to other inmates in max custody or POI status.</p> <p>SND further stated that he is not suicidal, and that the Brig Psychologist, Colonel Malone, is considering SND's need for medication. SND's final statement to the board was that SND, and the brig have SND's safety and security as a priority, but we have different ideas on how to maintain it. It is recommended that SND be remain MAX custody, remain POI, and remain in SQ-1.</p>
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					<p>Board members:</p> <p>GySgt Blenis</p> <p>GySgt Fuller</p> <p>SSG Jordan</p>
PPH - Perf, Smry	Counsel Notes	2011-02-01	Active	2011-02-01	<p>2011-02-01 Individual 20 minutes</p> <p>(1) SND received his weekly interview on 1 February 2011 and had no issues that needed immediate attention. SND stated that he did receive a command visit last week and was visited by his friend David House twice over the weekend. SND also spoke with his attorney, David Coombs on 25, 27 and 28 January 2011. SND did not receive any disciplinary reports or adverse spot evaluations and received an average work and training report. During the interview SND appeared more tense than usual. SND's counselor asked him if everything was alright to which SND replied yes. SND seemed taken aback to the question and stated that this was the third time today that someone had asked him the same question. SND's counselor was able to get SND engaged in a conversation about US history and WWII history. SND appeared more relaxed after the conversation got started but after a few minutes SND seemed uninterested in continuing the conversation. SND again stated that he was doing fine and that he had no issues that needed attention. During the interview, SND was well spoken, respectful and maintained eye contact. - GySgt Blenis</p>

					<p>(2) SND was evaluated by Col Malone on 28 January 2011 and, although further mental evaluation was deemed necessary, SND was recommended to be removed from POI classification from a psychiatric standpoint. Col Malone did annotate that SND was at a moderate risk to self harm but still improved since first arriving in Quantico. It was further annotated that SND's frustration tolerance has improved but is still below average, and that he has limited ability to express or understand his feelings. SND was reviewed by the Classification and Assignment Board on 28 January 2011 and was recommended to remain in POI status. The Brig Officer concurred with the Classification and Assignment board's recommendation and approved SND to remain classified as a POI detainee. SND will be reviewed by the Classification and Assignment Board next on 4 February 2011.</p>
					<p>(3) There were several reported incidents of unusual behavior demonstrated by Det Manning.</p>
					<p>(a) 25 January 2011: SND was observed flushing legal documents down his toilet.</p>
					<p>(b) 29 January 2011: SND was observed dancing in his cell.</p>
					<p>(c) 31 January 2011: SND was observed talking to himself while making a head call.</p>
					<p>(d) 1 February 2011: SND was observed making faces at himself and talking</p>

					<p>to himself in the mirror.</p> <p>(e) 1 February 2011: SND was observed rocking himself back and forth for a prolonged period of time while sitting in his rack.</p> <p>(f) 1 February 2011: SND was observed mumbling to himself in the mirror then petting the sink.</p> <p>(g) 1 February 2011: SND was observed standing in the center of his cell and staring into the corner for a prolonged period of time.</p> <p>(h) 1 February 2011: SND was observed licking his spoon repeatedly as if it were an ice cream cone.</p> <p>(i) 1 February 2011: SND was observed making his hands disappear then reappear from his sweatshirt repeatedly for a prolonged period of time.</p> <p>(j) 1 February 2011: SND was observed holding his arms out in front of himself for a prolonged period of time, as if he were waiting for someone to give him something.</p>
PPIII - Perf,	Board Review &	2011-01-28	Satisfactory or Above	2011-01-28	2011-01-28 Modified REVIEWED AND CONCUR - GYSGT BLENIS

Smry	Results				2011-01-28 Initial minutes SND was notified that his custody and status would be reviewed by the Classification and Assignment Board today. SND did not have any questions and did not request to appear before the board. It is recommended that SND remain MAX, remain POI, and remain in SQ-1. – SSG Jordan
PPIII - Perf, Smry	Counsel Notes	2011-01-24	Active	2011-01-28	<p>2011-01-28 Individual 30 minutes (1) SND received his weekly interview on 24 January 2011 and had no issues that needed immediate attention. SND stated that he did receive a command visit last week and was visited by his cousin over the weekend. SND also spoke with his attorney, David Coombs on 19 and 20 January 2011. SND did not receive any disciplinary reports or adverse spot evaluations and received an average work and training report. During the interview SND stated that he has continued reading and finished another book and is now preparing to begin a new one. SND engaged in a lengthy discussion about last week's C&A board and stated that he understands the different roles that one particular person may have. During the interview, SND was well spoken, respectful and maintained eye contact. SND's demeanor was relaxed and he appeared comfortable. – CySgt Blenis</p> <p>(2) SND was evaluated by Col Malone on 21 January 2011 and, although further mental evaluation was deemed necessary, SND was recommended to be removed from POI classification from a psychiatric standpoint. SND was reviewed by the Classification and Assignment Board on 21 January 2011 and was recommended to remain in POI status. The Brig Officer concurred with the Classification and Assignment board's recommendation and approved SND to remain classified as a POI detainee. SND will be reviewed by the Classification and Assignment Board next on 28 January 2011.</p>
PPIII - Perf,	Board Review &	2011-01-21	Satisfactory or Above	2011-01-21	2011-01-21 Initial minutes SND was reviewed by the Classification and Assignment Board on this date. SND was special moved by the DBS on

Smry	Results				<p>20110120 from MAX/DET/SR status to MAX/DET/POI. SND requested to appear before the board and was granted his request. During the board SND stated that he does not believe that SR or POI status is necessary because he has no intentions of harming himself. SND further stated that he does not feel that MAX custody is necessary because he has no intentions of escape or harming other individuals. SND did state that he believes that he should be segregated from general population and possibly placed in a protective custody status. During the board, SND stated that he does not feel that his emotional breakdown or aggressive actions toward himself on 20110118 should be taken in consideration because he feels they were brought on by his being in POI status. SND further stated that the similarity between these incidents and the breakdown that he had while confined in Kuwait should not be taken into consideration. SND was asked why his emotional breakdown happened in Kuwait to which SND replied "I was kept in a dark room, not allowed to write letters, or allowed to make phone calls." SND was then asked if those were the reasons why he had his breakdown in Kuwait, why is it that he chooses not to make phone calls or write letters now that he is allowed to. SND stated that he chooses not to write letters or make phone calls because of the restrictions placed on him. The board members explained to SND that there are no restrictions placed on these privileges and that he may write as many letters or make as many phone calls as he wishes. SND further stated that, while he did make a noose in Kuwait, that event happened a long time ago. The members of the C&A board explained to SND that, making a noose while in confinement 6 months ago is considered recent. SND was asked by the C&A board why, on his Mental/Physical Health Background, he wrote "always planning, never acting" in the block that asks "have you ever considered suicide". SND stated to the members of the board that "that may have been false". When asked by the senior member of the board "if that may have been false, should I believe that your statement of not wanting to harm yourself is also false?" To this question, SND answered "yes". After this, a separate member of the board asked if SND understood the question that he was asked, to which SND replied "yes". It was explained to SND that the members of the C&A board are not the final authority on any decision, and that he may appeal any decision made by the Brig OIC and still maintains the right to request mast. SND stated that he understands these rights. During the conduct of the board, SND was well spoken but slightly</p>
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					<p>stuttered, alert to time and place, and was visibly nervous with shaking hands. It is recommended that SND remain MAX custody, remain POI status and remain housed in SQ-1. – GySgt Blenis</p> <p>Board Members:</p> <p>GySgt Blenis</p> <p>GySgt Fuller</p> <p>SSgt Buck</p>
PPH - Perf, Smry	Board Review & Results	2011-01-19	Satisfactory or Above	2011-01-20	<p>2011-01-20 Initial minutes SND was notified that his status would be reviewed by the Classification and Assignment Board today. On 18 January 2011, the Brig OIC directed that SND be placed on SUICIDE RISK due to erratic behavior, emotional outbursts and aggressive action towards himself. SND was told that he will remain present status and will be reviewed again on 21 January 2011. It is recommended that SND remains MAX custody and housed in SQ-1. – GYSGT BLENIS</p>
PPH - Perf, Smry	Counsel Notes	2011-01-18	Active	2011-01-20	<p>2011 01-20 Individual 40 minutes (1) SND received his weekly interview on 18 January 2011 and had no issues that needed immediate attention. SND stated that he did receive a command visit last week and received no personal visits over the weekend. SND also spoke with his attorney, David Coombs on 14 January 2010.</p> <p>SND did not receive any disciplinary reports or adverse spot evaluations and received a below average work and training report. SND refused to sign his work and training report because he did not agree with the grades. SND received the normal grades that he receives weekly aside from the supervision category, where he received a grade of 1 which is described as constant. SND was also counseled by one security staff member for</p>

				<p>disobedience during the past week.</p> <p>Prior to the interview with his counselor, SND demonstrated erratic behavior during recreation call and had a moderate anxiety attack. SND later began showing aggressive behavior toward himself and yelling while speaking to the Brig Supervisor and Brig OIC. The Brig OIC directed that SND be placed on suicide risk status. During the interview with his counselor, SND stated that he did not understand why everyone was so concerned about his behavior. SND's counselor explained to SND the nature of the Brig staff's concern and their responsibility to protect SND from himself and others. SND stated that he did not understand why his actions caused so much concern among the staff or why he was being placed on suicide risk status. Aside from SND's erratic behavior and aggressive actions, SND stated that he was fine and it did appear that he was doing well. SND's speech and body language were consistent with his normal character. SND is currently reading a book about genetics and did engage in conversation about the topic and the book. SND was well spoken, maintained eye contact and stated that he was not suicidal. – GySgt Blenis</p>
				<p>(2) When the Brig OIC met with Det Manning at his cell, and initiated the conversation by asking how he was doing, which Det Manning responded that he was doing well. The Brig OIC continued by asking what happened during recreation call. SND became visibly agitated and hyperventilating. The Brig OIC told SND to relax, sit down and breathe. SND started stuttering, flailing his arms and striking himself in the head with both hands. SND began yelling to the Brig OIC "why are you staring at me", "send me home", "why am I here" and "what am I doing wrong". The Brig OIC again told SND to relax and calm down. SND continued to strike himself and stood up stuttering and mumbling to himself. At this time the Brig OIC informed SND that he was directing that SND be placed on suicide risk status. SND became more irate stating that there was no need for him to be placed on suicide risk status and that he did not understand why he was being punished by being on POI status. At this time once being informed that he was being placed on suicide risk status, SND attempted to negotiate with the Brig OIC</p>

					<p>not to be placed on suicide risk status. SND became hesitant to give his clothing to the Brig Supervisor at which time the Brig OIC directed that the Brig staff begin videotaping SND's behavior. Once the videotaping began, SND began to calm down and complied with all orders given by Brig staff. The Brig OIC directed that the Brig staff contact Capt Hocter and ask that he come see Det Manning as soon as possible. After Capt Hocter spoke with SND, the Brig OIC again spoke with Det Manning at which time SND apologized to the Brig OIC for his conduct and behavior.</p> <p>(3) SND was evaluated by Capt Hocter on 14 January 2011 and, although further mental evaluation was deemed necessary, SND was recommended to be removed from POI classification from a psychiatric standpoint. SND was reviewed by the Classification and Assignment Board on 14 January 2011 and was recommended to remain in POI status. The Brig Officer concurred with the Classification and Assignment board's recommendation and approved SND to remain classified as a POI detainee.</p> <p>(4) SND was evaluated by Capt Hocter on 18 January 2010 after SND's anxiety attack and outburst. Capt Hocter stated to the Brig OIC and Staff NCO's that Det Manning should be placed on prevention of injury classification and followed up with by behavioral health. SND will be reviewed by the Classification and Assignment Board next on 21 January 2011.</p>
PPHII -	Board	2011-01-14	Satisfactory	2011-01-20	2011-01-20 Initial minutes SND was notified that his custody and status

Perf, Smry	Review & Results		or Above		would be reviewed by the Classification and Assignment Board today for a 7 day review. SND did not have any questions and did not request to appear before the board. SND was evaluated by the Brig Psychiatrist on 14 January 2010 and recommended to be removed from POI. SND has not presented any problems since his last review and has been an overall average detainee. It is recommended that SND be remain MAX custody, remain POI, and remain in SQ 1. - GySgt Blenis
PPIII - Perf, Smry	Counsel Notes	2011-01-11	Active	2011-01-11	<p>2011-01-11 Individual 15 minutes SND received his weekly interview on 11 January 2011 and had no issues that needed immediate attention. SND did not receive any disciplinary reports or spot evaluations and received an above average working and training report. During the interview SND stated that he was reading some of the books he had requested through the literary review board, and that some of the books were interesting and difficult reads. SND spoke about his excitement for March so he can watch the college basketball championship tournament. SND stated that he always enjoys that time of year and frequently fills out a bracket. SND seemed to not want to engage in conversation towards the end of the interview, and still did not initiate any of the conversation. SND appears to be doing well and is respectful and courteous towards staff. During the course of the interview SND was well spoken and maintained eye contact and his demeanor was consistent with his normal character. ----SSG Jordan</p> <p>SND was evaluated by Capt Hocter on 7 January 2011 and, although further mental evaluation was deemed necessary, SND was recommended to be removed from POI classification from a psychiatric standpoint. SND is expected to be evaluated by Capt Hocter again on 14 January 2011.</p>
PPIII - Perf, Smry	Counsel Notes	2011-01-03	Active	2011-01-07	<p>2011-01-07 Individual 15 minutes</p> <p>(1) SND received his weekly interview on 3 January 2011 and had no issues that needed immediate attention. SND stated that he did receive a command</p>

				<p>visit last week and was visited by his cousin, Christopher Van Alstyne, and his Aunt, Debra Van Alstyne over the weekend. SND also spoke with his attorney, David Coombs on 30 December 2010. SND did not receive any disciplinary reports or adverse spot evaluations and received an average work and training report. During the interview, SND stated that he was doing well and had no issues that needed attention. During the interview SND stated that he was reading a sociology book from the Brig library and also spoke with the counselor about several other topics. SND has recently begun engaging in conversation more than he normally does but still does not initiate any conversation. Overall SND appears to be doing well and is respectful and courteous to staff. During the interview SND was well spoken, maintained eye contact and his demeanor was consistent with his normal character. – GySgt Blenis</p> <p>(2) On 5 January 2011, the Brig OIC personally met with Det Manning in the Programs Chief's office. SND stated to the Brig OIC that everything was going well, that his needs were being met and that he was being treated appropriately. SND had no issues or concerns that needed the Brig OIC's attention.</p> <p>(3) SND was evaluated by Capt Hocter on 30 December 2011 and, although further mental evaluation was deemed necessary, SND was recommended to be removed from POI classification from a psychiatric standpoint. SND is expected to be evaluated by Capt Hocter again on 7 January 2011. SND was reviewed by the Classification and Assignment Board on 3 January 2011 and was recommended to remain in POI status. The Brig Officer concurred with the Classification and Assignment board's recommendation and approved SND to remain classified as a POI detainee. The Brig OIC approves and directs that SND remain in a heightened security status, I.E. prevention of injury, until SND completes the pending 706 sanity board. SND will be reviewed by the Classification and Assignment Board next on 7 January 2011.</p>
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					(4) There was one recorded incident of unusual behavior demonstrated by Det Manning. On 4 January 2011, SND was observed talking and giggling to himself, then beating himself on the chest.
PPIII - Perf, Smry	Board Review & Results	2011-01-07	Active	2011-01-07	2011-01-07 Initial minutes SND was notified that his custody and status would be reviewed by the Classification and Assignment Board today for a 7 day review. SND did not have any questions and did not request to appear before the board. SND was evaluated by the Brig Psychiatrist on 7 January 2011 and recommended to be removed from POI. SND has not presented any problems since his last review and has been an overall average detainee. It is recommended that SND be remain MAX custody, remain POI, and remain in SQ-1. - GySgt Blenis
PPIII - Perf, Smry	Board Review & Results	2011-01-03	Satisfactory or Above	2011-01-06	2011-01-06 Initial minutes SND was notified that his custody and status would be reviewed by the Classification and Assignment Board today for a 7 day review. SND did not have any questions and did not request to appear before the board. SND was evaluated by the Brig Psychiatrist on 30 December 2010 and recommended to be removed from POI. SND has not presented any problems since his last review and has been an overall average detainee. It is recommended that SND be remain MAX custody, remain POI, and remain in SQ-1. - GySgt Blenis
PPIII - Perf, Smry	Board Review & Results	2010-12-23	Satisfactory or Above	2011-01-06	2011-01-06 Initial minutes SND was notified that his custody and status would be reviewed by the Classification and Assignment Board today for a 7 day review. SND did not have any questions and did not request to appear before the board. SND was evaluated by the Brig Psychiatrist on 23 December 2010 and recommended to be removed from POI. SND has not presented any problems since his last review and has been an overall average detainee. It is recommended that SND be remain MAX custody, remain POI, and remain in SQ-1. - GySgt Blenis

PPIII - Perf, Smry	Counsel Notes	2010-12-28	Active	2010-12-29	<p>2010-12-29 Individual 30 minutes (1) SND received his weekly interview on 28 December 2010 and had no issues that needed immediate attention. SND stated that he did receive a command visit last week and was visited by his cousin, Robert Van Alstyne, over the weekend. SND also spoke with his attorney, David Coombs on 23 December 2010. SND did not receive any disciplinary reports or adverse spot evaluations and received an average work and training report. During the interview, SND stated that he had a good weekend and that it was quiet. During the interview, SND's counselor was able to get SND engaged in a lengthy conversation about computer technology and several other topics. SND was asked how he was doing physically and mentally and SND stated that he felt as good as he did that he was received into confinement aboard Quantico. SND was evaluated by Capt Hocter on 23 December 2010 and, although further mental evaluation was deemed necessary, SND was recommended to be removed from POI classification from a psychiatric standpoint. SND is expected to be evaluated by Capt Hocter again on 30 December 2010. SND was reviewed on 23 December 2010 by the Classification and Assignment Board and was recommended to remain in POI status. The Brig Officer concurred with the Classification and Assignment board's recommendation and approved SND to remain classified as a POI detainee. The Brig OIC approves and directs that SND remain in a heightened security status, I.E. prevention of injury, until SND completes the pending sanity board. SND will be reviewed by the Classification and Assignment Board next on 30 December 2010. Overall SND was respectful and cooperative during the interview. SND appeared to be in a good mood compared to last week and his demeanor was consistent with his normal character. SND appears healthy, both physically and mentally, and SND states that he feels healthy, both physically and mentally.</p> <p>- GySgt Blenis</p> <p>(2) On 28 December 2010, the Brig OIC personally met with Det Manning in the Programs Chief's office. SND stated to the Brig OIC that everything was going well, that his needs were being met and that he was being treated appropriately. SND had no issues or concerns that needed the Brig OIC's attention.</p>
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					<p>(3) There was one recorded incident of unusual behavior demonstrated by Det Manning.</p> <p>(4) On 25 December 2010, SND voluntarily requested to have his recreation call secured early. SND was instructed to make a written statement saying that he was electing to not receive the full 60 minute recreation call, but SND refused to do so. SND was later counseled by GySgt Blenis that the written statement is not designed to be adverse in nature, but only for documentation reasons. SND stated that he understood and would make the written statement in the future.</p>
PPHII - Perf, Smry	Counsel Notes	2010-12-13	Active	2010-12-22	<p>2010-12-22 Individual 15 minutes (1) SND received his weekly interview on 13 December 2010 and had no issues that needed immediate attention. SND did not receive any disciplinary reports or adverse spot evaluations and received an above average work and training report. During the interview, SND stated that he was doing well and had no problems or concerns. SND was quiet during the interview and showed no interest in conversation. SND was courteous when answering questions but gave short and to the point answers. SND did not engage in any conversation aside from his well being and visitation. SND was evaluated by Capt Hocter on 10 December 2010 and was recommended to remain on POI status. Capt Hocter made the remarks that SND was not doing well but was not specific. This was the first time since 27 August 2010 that the Brig Psychiatrist recommended SND to be on POI status. SND was reviewed on 10 December 2010 by the Classification and Assignment Board and was recommended to remain in POI status. The Brig Officer concurred with the Classification and Assignment board's recommendation and approved SND to remain classified as a POI detainee. SND will be reviewed by the Classification and Assignment Board next on 17 December 2010. Overall SND is appears fine physically and his speech and body language were consistent with his normal character. Although SND</p>

				<p>was more talkative than usual last week, SND is once again quiet as he has been for the duration of his confinement. - GySgt Blenis</p> <p>(2) There were three entries made in the suicide watch logbook regarding Det Manning's behavior.</p> <p>(a) On 8 December 2010, SND was observed standing in the middle of his cell with his arms spread out and staring at the floor.</p> <p>(b) On 9 December 2010 SND was observed dancing in his cell. The staff member that made the entry was asked how he was dancing and GySgt Blenis was informed that it was comparable to "rave" dancing.</p> <p>(c) On 9 December 2010 it was annotated that SND had been previously observed playing "peek-a-hoo" with himself in the cell mirror.</p> <p>(3) On 13 December 2010, a package from Amazon.com was delivered to the Brig by a construction worker who works at a nearby site. There was no previous request for a package submitted by Det Manning and there was no previous approval for a package given by the Brig OIC. When asked about any potential packages that may be coming, Det Manning stated that he was not aware of any but thought that family members may be sending something due to his upcoming birthday. The package is being rejected and returned to sender due to the manner in which it was received and also because there was no prior request or knowledge of the package by SND, and there was no pre-approval given by the Brig OIC.</p>
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					<p>(4) On 14 December 2010, SND was taken out of the facility on temporary absence to Fort Meyer for a legal appointment.</p> <p>(5) On 15 December 2010, SND was provided with a safety mattress that is a one piece mattress with pillow.</p> <p>(6) Visitation:</p> <p>(a) 8 December 2010: Received phone call from David Coombs, attorney.</p> <p>(b) 10 December 2010: Received command visit from 1st Sgt Williams.</p> <p>(c) 10 December 2010: Medical visit conducted by Capt Hocter and LtCol Janis Carlton, from Walter Reed</p> <p>(d) 11 December 2010: Received personal visit from Robert Van Alstyne, cousin.</p> <p>(e) 12 December 2010: Received personal visit from David House, friend.</p>
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PPIII - Perf, Smry	Counsel Notes	2010-12-20	Active	2010-12-22	<p>2010-12-22 Individual 15 minutes (1) SND received his weekly interview on 20 December 2010 and had no issues that needed immediate attention, apart from the two DD 510's that he submitted. SND stated that he did receive a command visit last week and was visited by his friend David House over the weekend. SND also spoke with his attorney, David Coombs on 17 December 2010 and 20 December 2010. SND did not receive any disciplinary reports or adverse spot evaluations and received an above average work and training report. During the interview, SND stated that his weekend was quiet and uneventful. SND was a little upset that no family members came to visit over the weekend since his birthday was this past Friday, but hopes that they will be coming over the Christmas weekend. It also appeared that SND was upset about something else, but when asked, SND did not speak about what was bothering him. SND did submit two DD 510 requests during the past week. The first was a request for books to be reviewed by the literary review board so he may receive some books from his family. The second was a request for an emergency phone call to his lawyer regarding the Vice President, Joe Biden. SND did not want to discuss the reason for this request but I believe that the reason is also the same as the reason for SND appearing upset. SND was evaluated by Capt Hocter on 17 December 2010 and, although further mental evaluation was deemed necessary, SND was recommended to be removed from POI classification from a psychiatric standpoint. SND is expected to be evaluated by Capt Hocter again on 23 December 2010. SND was reviewed on 17 December 2010 by the Classification and Assignment Board and was recommended to remain in POI status. The Brig Officer concurred with the Classification and Assignment board's recommendation and approved SND to remain classified as a POI detainee. SND will be reviewed by the Classification and Assignment Board next on 23 December 2010. Overall SND was respectful and cooperative during the interview. Although SND seemed upset and his demeanor was not consistent with his normal character, SND stated that he was doing fine and has no suicidal ideations. --GySgt Blenis</p>

				<p>(2) There were no recorded incidents of unusual behavior demonstrated by Det Manning.</p> <p>(3) On 15 December 2010, SND was taken out of the facility on temporary absence to Fort Meyer for a legal appointment.</p> <p>(4) On 15 December 2010, SND was provided with a safety mattress that is a one piece mattress with pillow.</p> <p>(5) On 18 December 2010, the DBS Sgt Garnett, received an anonymous phone call from a woman asking the Brig's visiting hours and stating that she would be coming to visit Det Manning. The DBS informed the caller of the visitation policy at which time the woman became irate stating that she was a taxpayer and could visit whoever she wants whenever she wants. The woman also stated that Det Manning's situation is a matter of public record and that she knew the layout of the Brig and began to describe it. The woman refused to provide her name and told the DBS that she would be using his name in internet articles and posts. The caller continued to raise her voice at which time the DBS terminated the call.</p> <p>(6) On 20 December 2010, the Brig OIC personally met with Det Manning in the Programs Chief's office. SND stated to the Brig OIC that everything was going well, that his needs were being met and that he was being treated appropriately. SND had no issues or concerns that needed the Brig OIC's attention.</p>
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					(7) on 20 December 2010, the Brig OIC received a letter from a Thomas Prindville Higgins, who claims to be an attorney from San Jose, Ca. The letter expresses the sender's concerns of SND's inhumane conditions and asks that SND be provided with adequate work and counseling opportunities.
PPHII - Perf, Smry	Board Review & Results	2010-12-17	Satisfactory or Above	2010-12-17	2010-12-17 Initial minutes SND was notified that his custody and status would be reviewed by the Classification and Assignment Board today for a 7 day review. SND did not have any questions and did not request to appear before the board. SND was evaluated by the Brig Psychiatrist on 17 December 2010 and recommended to be removed from POI. SND has not presented any problems since his last review and has been an overall average detainee. It is recommended that SND be remain MAX custody, remain POI, and remain in SQ-1. - GySgt Blenis
PPHII - Perf, Smry	Board Review & Results	2010-12-10	Satisfactory or Above	2010-12-14	2010-12-14 Initial minutes SND was notified that his custody and status would be reviewed by the Classification and Assignment Board today for a 7 day review. SND did not have any questions and did not request to appear before the board. SND was evaluated by the Brig Psychiatrist on 10 December 2010 and recommended to remain on POI. SND has not presented any problems since his last review and has been an overall average detainee. It is recommended that SND be remain MAX custody, remain POI, and remain in SQ-1. - GySgt Blenis
PPHII - Perf, Smry	Counsel Notes	2010-12-07	Active	2010-12-07	2010-12-07 Individual 20 minutes SND received his weekly interview on 7 December 2010 and had no issues that needed immediate attention. SND stated that he did not receive a command visit last week and did not receive any personal visits over the weekend. SND's counselor attempted to contact 1st Sgt Williams in regards to the missed command visit but was unsuccessful. SND stated that he had no issues that needed immediate action from his command but did state that he would like to request additional health and comfort items and also new combat utilities through his command.

				<p>SND did not receive any disciplinary reports or adverse spot evaluations and received an above average work and training report. During the interview, SND stated that he was doing well and had no problems or concerns. SND stated that his weekend was slow and quiet but that everything was fine. SND seemed to be in a better mood than last week and was more talkative than usual. I was able to get him into a conversation about uniforms and also the anniversary of the bombing at Pearl Harbor. SND also engaged in conversation about the national Anthem and its origin. SND stated that he has been slowly reading the Scientific American magazine but has not started any new books. Although SND is a fan of college basketball, he has not watched any games yet and stated that he only follows closely during the NCAA tournament.</p> <p>SND was evaluated by Capt Hocter on 2 December 2010 and, although further mental evaluation was deemed necessary, SND was recommended to be removed from POI classification from a psychiatric standpoint. SND is expected to be evaluated by Capt Hocter again on 10 December 2010. SND was reviewed on 3 December 2010 by the Classification and Assignment Board and was recommended to remain in POI status. The Brig Officer concurred with the Classification and Assignment board's recommendation and approved SND to remain classified as a POI detainee. SND will be reviewed by the Classification and Assignment Board next on 10 December 2010. Overall SND is doing well and has no concerns. During the interview SND was courteous and well spoken and he maintained good eye contact. SND's mood and character were consistent with his normal character -GySgt Blenis</p> <p>NOTES:</p>
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					(1) There was one entry made in the suicide watch logbook regarding Det Manning's behavior. On 1 December 2010, SND was posing and flexing his muscles in front of the mirror in his cell.
PPIII - Perf, Smry	Board Review & Results	2010-12-03	Satisfactory or Above	2010-12-06	2010-12-06 Initial minutes SND was notified that his custody and status would be reviewed by the Classification and Assignment Board today for a 7 day review. SND did not have any questions and did not request to appear before the board. SND was evaluated by the Brig Psychiatrist on 2 December 2010 and recommended to be removed from POI. SND has not presented any problems since his last review on and has been an overall average detainee. It is recommended that SND be remain MAX custody, remain POI, and remain in SQ-1. - GySgt Blenis
PPIII - Perf, Smry	Counsel Notes	2010-11-30	Active	2010-12-03	2010-12-03 Individual minutes SND received his weekly interview on 30 November 2010 and had no issues that needed immediate attention. SND stated that he received a command visit from 1st Sgt Williams last week and did not receive any personal visits over the weekend. SND did not receive any disciplinary reports or adverse spot evaluations and received an average work and training report. During the interview, SND stated that he was doing well and had no problems or concerns. SND stated that his weekend was quiet and relaxing. SND stated that he did receive three more backdated issues of Scientific American magazine which he has been reading. SND stated that he has not been reading any books and he routinely watches television in the evening. SND was not evaluated by the Brig Psychiatrist this past week due to the holiday weekend and the Brig Psychiatrist's absence. SND is expected to be seen by the Brig Psychiatrist next on 3 December 2010. SND was not reviewed by the Classification and Assignment Board during the past week due to the holiday weekend. SND will be reviewed by the Classification and Assignment Board next on 3 December 2010. SND was more quiet than usual and seemed less interested in engaging in conversation. When asked if everything was okay, he stated again that he was doing well and had no problems. Overall SND physically appeared fine and

					<p>he was well spoken. SND was courteous and respectful but his mood was less jovial than usual. -- GySgt Blenis</p> <p>NOTES:</p> <p>(1) Although not on suicide watch, the Brig Officer in Charge has directed that any unusual or unorthodox behavior displayed by Det Manning will be recorded in the suicide watch logbook.</p> <p>(2) There was one entry made in the suicide watch logbook regarding Det Manning's behavior. On 29 November 2010, SND was observed dancing in front of the mirror in his cell.</p> <p>(3) The Brig OIC approved Det Manning's sunshine call to be conducted without the requirement of the Brig OIC, Brig Supervisor or the Operations Chief having to be aboard the facility.</p>
PPHII - Perf. Smry	Counsel Notes	2010-11-23	Active	2010-11-23	<p>2010-11-23 Individual 15 minutes SND received his weekly interview on 23 November 2010 and had no issues that needed immediate attention. SND stated that he did receive his weekly command visit last week and was visited by his friend over the weekend. 1st Sgt Williams provided Det. Manning with a copy of his LES as requested during his command visit on 18 November 2010. SND did not receive any disciplinary reports or adverse spot evaluations and received an above average work and training report. During the interview, SND stated that he was doing well and had no problems or concerns. SND did not show any desire to engage in conversation aside from his well being. SND continues to show that he prefers to be left to himself</p>

				<p>and states that he does not get bored in his cell. SND did state that he was enjoying the Scientific American magazine and was appreciative that his lawyer had it sent and that he is allowed to receive it. SND stated that he has been watching television regularly and likes to watch current events, but will occasionally pay attention to other programs that are on.</p> <p>SND was evaluated by the Brig Psychiatrist on 19 November 2010 and found fit to be removed from POI from a psychiatric standpoint however, the Brig Psychiatrist feels that further mental evaluation is necessary. SND is expected to be reviewed by the Brig Psychiatrist next on 26 November 2010. SND was reviewed on 19 November 2010 by the Classification and Assignment Board and was recommended to remain in POI status. The Brig Officer concurred with the Classification and Assignment board's recommendation and approved SND to remain classified as a POI detainee.</p> <p>During the interview SND was well spoken and courteous. SND's attitude and demeanor were consistent with his normal character and stated that he has no suicidal ideations. -GySgt Blenis</p> <p>NOTES:</p> <p>(1) On 22 November 2010, SND was taken out of the facility on temporary absence to Fort Belvoir for a legal appointment.</p> <p>(2) On 23 November 2010, SND's counselor was informed by a member of the security staff that is assigned duties in SND's housing area, that Det.</p>
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					<p>Manning's conduct has been unorthodox in that:</p> <p>(a) SND has been observed sword fighting imaginary characters in his cell.</p> <p>(b) SND has been observed lifting imaginary weights in his cell, displaying actual strain and exertion.</p> <p>(c) SND has been observed staring at himself in the mirror and making faces at himself.</p> <p>(d) SND has been observed licking the bars to his cell at night time.</p>
PPIII - Perf, Smry	Board Review & Results	2010-11-19	Satisfactory or Above	2010-11-23	<p>2010-11-23 Initial minutes SND was notified that his custody and status would be reviewed by the Classification and Assignment Board today for a 7 day review. SND did not have any questions and did not request to appear before the board. SND was evaluated by the Brig Psychiatrist on 19 November 2010 and recommended to be removed from POL. SND has not presented any problems since his last review on and has been an overall average detainee. It is recommended that SND be remain MAX custody, remain POL, and remain in SQ-1. - GySgt Blenis</p>
PPIII - Perf, Smry	Counsel Notes	2010-11-16	Active	2010-11-17	<p>2010-11-17 Individual 15 minutes SND received his weekly interview on 16 November 2010 and had no issues that needed immediate attention. SND stated that he did receive his weekly command visit last week and was visited by his aunt over the weekend. SND did not receive any disciplinary reports or adverse spot evaluations and received an above average work and training</p>

					<p>report. During the interview, SND stated that he was doing well and that he did submit three DD 510 requests. The first DD 510 was a request for a copy of his LES because he believes that his pay was stopped. SND's Company 1stSgt was unable to be contacted so his Company Commander, Capt Casamatta, was informed of the request by GySgt Blenis on 12 November 2010 via telephone conversation. The second DD 510 was an inquiry of command visitation and monitoring of legal visits. SND was informed that a command visit may be conducted by any SNCO or Officer from his parent command and that he may not always know the individual who is conducting the command visit. SND was also informed that his legal visits are considered privileged and are not monitored within the facility. SND believes that the prosecution is somehow monitoring his conversations with his defense council. SND's third DD 510 was a request to receive a subscription to Scientific American magazine. The request was approved, and SND's attorney is having it sent to SND. Aside from his DD 510's, SND was quiet and did not show desire to engage in any conversation. SND was not evaluated by the Brig Psychiatrist this past week due to the Brig Psychiatrist's absence. SND was reviewed on 12 November 2010 by the Classification and Assignment Board and was recommended to remain in POI status. The Brig Officer concurs with the classification and assignment board and SND will remain his present status of POI. During the interview SND was respectful and courteous and was well spoken. SND's attitude and demeanor were consistent with his normal character and stated that he is not suicidal. -GySgt Blenis</p>
<p>PPHII - Perf. Smry</p>	<p>Board Review & Results</p>	<p>2010-11-15</p>	<p>Satisfactory or Above</p>	<p>2010-11-15</p>	<p>2010-11-16 Modified REVIEWED AND CONCUR - GYSGT BLENIS</p> <p>2010-11-15 Initial minutes SND was notified that his custody and status would be reviewed by the Classification and Assignment Board today for a 7 day review. SND did not have any questions and did not request to appear before the board. SND was evaluated by the Brig Psychiatrist on 13 NOV 2010 and recommended to remain on POI. SND has not presented any problems since his last review on 5 NOV 2010 and has been an overall average detainee. It is recommended that SND be remain MAX custody, remain POI, and remain in SQ-1. - Cpl Purdon</p>

PPII - Perf, Smry	Counsel Notes	2010-11-08	Active	2010-11-12	<p>2010-11-12 Individual 15 minutes SND received his weekly interview on 8 November 2010 and had no issues that needed immediate attention. SND did not receive any disciplinary reports or adverse spot evaluations and received an average work and training report. During the interview, SND stated that he was doing well and had no concerns at the time. SND was quiet and did not engage in any conversation outside of how he was doing. SND continues to show minimal interest in any interaction or discussion with staff, and still appears to be content being left to himself. During the interview SND was respectful and courteous and was well spoken. SND's attitude and demeanor were consistent with his normal character and stated that he is not suicidal. - GySgt Blenis</p> <p>Notes:</p> <p>(1) On 9 November 2010, a reporter from a San Francisco newspaper called requesting to know who has visited Det Manning. GySgt Blenis spoke with the reporter and stated that SND's visitation is not a matter of public knowledge and that the requested information would not be provided. The reporter was directed to contact the public affairs office if they had any concerns regarding Det Manning.</p>
PPIII - Perf, Smry	Counsel Notes	2010-11-02	Active	2010-11-05	<p>2010-11-05 Individual 15 minutes SND received his weekly interview on 2 November 2010 and had no issues that needed immediate attention. SND stated that he did receive his weekly command visit last week and received no personal visits over the weekend. On 29 October 2010 SND spoke with his civilian attorney, David Coombs, over the phone. SND did not receive any disciplinary reports or adverse spot evaluations and received an average work and training report. During the interview, SND stated that he was doing well and everything was going fine. SND again showed no desire to engage in any conversation aside from how he was doing and if his attorney had called. SND continues to show minimal interest in any interaction or discussion with staff, and still appears to be content being left to himself. SND was evaluated by the Brig Psychiatrist on 29 October 2010 and was</p>

				<p>found fit to be removed from prevention of injury classification from a psychiatric standpoint. SND was reviewed on the same date by the Classification and Assignment Board and was recommended to remain present status. The Brig Officer concurs with the classification and assignment board and SND will remain his present status of POJ. During the interview SND was respectful and courteous and was well spoken. SND appears to be in high spirits and have a positive attitude. SND's attitude and demeanor were consistent with his normal character and he continues to state that he is not suicidal. -GySgt Blenis</p> <p>NOTES:</p> <p>(1) On 27 October 2010, the Brig OIC authorized Det Manning one additional hour of correspondence time daily.</p> <p>(2) On 27 October 2010, SND was taken out on an unscheduled temporary absence to Fort Belvoir. Neither the Ft. Belvoir SJA office nor the parent command contacted the Brig for coordination. While SND was out, the unit escorts failed to provide Det Manning with afternoon chow. Det Manning received one box lunch upon his return to the Brig.</p>
PPH - Perf, Smry	Board Review & Results	2010-11-05	Satisfactory or Above	<p>2010-11-08 Modified Reviewed and concur - GySgt Blenis</p> <p>2010-11-05 Initial minutes SND was notified that his custody and status would be reviewed by the Classification and Assignment Board today for a 7 day review. SND did not have any questions and did not request to appear before the board. SND was evaluated by the Brig Psychiatrist on 29 Oct 2010 and recommended to remain on POI. SND has not presented any problems since his last review on 29 October 2010 and has been an overall average</p>

					detainee. It is recommended that SND be remain MAX custody, remain POI, and remain in SQ-1. – Cpl Purdon
PPIII - Perf, Smry	Board Review & Results	2010-10-29	Satisfactory or Above	2010-11-02	2010-11-02 Initial minutes SND was notified that his custody and status would be reviewed by the Classification and Assignment Board today for a 7 day review. SND did not have any questions and did not request to appear before the board. SND was evaluated by the Brig Psychiatrist on 29 October 2010 and recommended to be removed from POI. SND has not presented any problems since his last review on 22 October 2010 and has been an overall average detainee. It is recommended that SND be remain MAX custody, remain POI, and remain in SQ-1. – GySgt Blenis
PPIII - Perf, Smry	Board Review & Results	2010-10-22	Satisfactory or Above	2010-10-28	2010-10-28 Initial minutes SND was notified that his custody and status would be reviewed by the Classification and Assignment Board today for a 7 day review. SND did not have any questions and did not request to appear before the board. SND was evaluated by the Brig Psychiatrist on 22 October 2010 and recommended to be removed from POI. SND has not presented any problems since his last review on 15 October 2010 and has been an overall average detainee. It is recommended that SND be remain MAX custody, remain POI, and remain in SQ-1. – GySgt Blenis
PPIII - Perf, Smry	Board Review & Results	2010-10-15	Satisfactory or Above	2010-10-28	2010-10-28 Initial minutes SND was notified that his custody and status would be reviewed by the Classification and Assignment Board today for a 7 day review. SND did not have any questions and did not request to appear before the board. SND was evaluated by the Brig Psychiatrist on 15 October 2010 and recommended to be removed from POI. SND has not presented any problems since his last review on 8 October 2010 and has been an overall average detainee. It is recommended that SND be remain MAX custody, remain POI, and remain in SQ-1. – GySgt Blenis
PPIII - Perf, Smry	Counsel Notes	2010-10-19	Active	2010-10-22	2010-10-22 Individual 30 minutes SND received his weekly interview on 19 October 2010 and had no issues that needed immediate attention. SND stated that he did receive his weekly command visit last week and no personal visits over the weekend. SND has made no personal phone calls but did speak with his his civilian attorney David Coombs over the phone on 19 October 2010. SND did not receive any disciplinary reports or adverse spot evaluations and received an above average work and training report. During the interview

INSTRUCTIONS FOR PREPARING AND ARRANGING RECORD OF TRIAL

USE OF FORM - Use this form and MCM, 1984, Appendix 14, will be used by the trial counsel and the reporter as a guide to the preparation of the record of trial in general and special court-martial cases in which a verbatim record is prepared. Air Force uses this form and departmental instructions as a guide to the preparation of the record of trial in general and special court-martial cases in which a summarized record is authorized.

Army and Navy use DD Form 491 for records of trial in general and special court-martial cases in which a summarized record is authorized. Inapplicable words of the printed text will be deleted.

COPIES - See MCM, 1984, RCM 1103(g). The convening authority may direct the preparation of additional copies.

ARRANGEMENT - When forwarded to the appropriate Judge Advocate General or for judge advocate review pursuant to Article 64(a), the record will be arranged and bound with allied papers in the sequence indicated below. Trial counsel is responsible for arranging the record as indicated, except that items 6, 7, and 15e will be inserted by the convening or reviewing authority, as appropriate, and items 10 and 14 will be inserted by either trial counsel or the convening or reviewing authority, whichever has custody of them.

1. Front cover and inside front cover (chronology sheet) of DD Form 490.

2. Judge advocate's review pursuant to Article 64(a), if any.

3. Request of accused for appellate defense counsel, or waiver/withdrawal of appellate rights, if applicable.

4. Briefs of counsel submitted after trial, if any (Article 38(c)).

5. DD Form 494, "Court-Martial Data Sheet."

6. Court-martial orders promulgating the result of trial as to each accused, in 10 copies when the record is verbatim and in 4 copies when it is summarized.

7. When required, signed recommendation of staff judge advocate or legal officer, in duplicate, together with all clemency papers, including clemency recommendations by court members.

8. Matters submitted by the accused pursuant to Article 60 (MCM, 1984, RCM 1105).

9. DD Form 458, "Charge Sheet" (unless included at the point of arraignment in the record).

10. Congressional inquiries and replies, if any.

11. DD Form 457, "Investigating Officer's Report," pursuant to Article 32, if such investigation was conducted, followed by any other papers which accompanied the charges when referred for trial, unless included in the record of trial proper.

12. Advice of staff judge advocate or legal officer, when prepared pursuant to Article 34 or otherwise.

13. Requests by counsel and action of the convening authority taken thereon (e.g., requests concerning delay, witnesses and depositions).

14. Records of former trials.

15. Record of trial in the following order:

a. Errata sheet, if any.

b. Index sheet with reverse side containing receipt of accused or defense counsel for copy of record or certificate in lieu of receipt.

c. Record of proceedings in court, including Article 39(a) sessions, if any.

d. Authentication sheet, followed by certificate of correction, if any.

e. Action of convening authority and, if appropriate, action of officer exercising general court-martial jurisdiction.

f. Exhibits admitted in evidence.

g. Exhibits not received in evidence. The page of the record of trial where each exhibit was offered and rejected will be noted on the front of each exhibit.

h. Appellate exhibits, such as proposed instructions, written offers of proof or preliminary evidence (real or documentary), and briefs of counsel submitted at trial.